

County, and of C. M. Wellons, administrator of Solomon P. McKinnie, deceased, of Hardeman County, Tennessee, asking that their war claims be referred to the Court of Claims—to the same committee.

By Mr. WAKEFIELD: Petition of Philip Bardon and 136 others, of Sibley County, Minnesota, for the passage of an act embodying the recommendations of the national committee of the Grand Army of the Republic—to the Committee on Invalid Pensions.

By Mr. WHEELER: Papers relating to the claim of William W. Campbell, administrator of James Campbell, of Jackson County, Alabama—to the Committee on War Claims.

The following petitions, asking for the passage of House bill 7887, repealing timber-culture, pre-emption, and desert-land acts; of House bill 7021, for adjustment of railroad and other land grants; of bill forfeiting all railroad land grants the conditions of which have not been strictly complied with; of House bill organizing the Territory of Oklahoma; of Senate bill opening a portion of the great Sioux reservation to settlement; of bill prohibiting aliens from holding land in the United States; of bill making Presidential and Congressional election days holidays, and punishing bribery; and of bill directing disbursement of at least \$200,000,000 Treasury surplus, and substituting Treasury notes for bank notes retired, were severally referred to the Committee on the Public Lands:

By Mr. BAKER: Petition of Patrick Haggarty and 24 others, citizens of the first district of Delaware.

By Mr. FARQUHAR: Petition of members of Stephens Local Assembly, Knights of Labor, of Buffalo, N. Y.

By Mr. MCOMAS: Petition of 136 citizens of Lonaconing, and of James Finn and 24 others, citizens of Vale Summit, Md.

By Mr. PLUMB: Petition of Thomas M. Gent and 147 others, citizens of the eighth district of Illinois.

By Mr. E. F. STONE: Petition of Frank Welsh and 195 others, and of William M. Ginley and 43 others, citizens of the seventh district of Massachusetts.

## SENATE.

MONDAY, July 26, 1886.

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

The Journal of the proceedings of Saturday last was read and approved.

### PETITIONS AND MEMORIALS.

Mr. WILSON, of Iowa. I present the petition of W. W. Allen and 70 other citizens of Richland, Iowa, praying for the passage of the bill (S. 1253) granting a pension to James D. Haworth, vetoed by the President, and stating the reasons for their request.

I am personally acquainted with a large number of the signers of this petition and know them to be among the best citizens of our State. Inasmuch as the Committee on Pensions report in favor of the passage of the bill over the President's veto, in order that the members of the Senate may know what this man's neighbors think of him I ask that the petition without the names be printed in the RECORD.

The petition was ordered to lie on the table and to be printed in the RECORD, as follows:

RICHLAND, IOWA, July, 1886.

To the Senate and House of Representatives of the United States in Congress assembled:

GENTLEMEN: We, the undersigned, your petitioners and citizens of Richland and vicinity, who are well acquainted with our fellow-citizen, James D. Haworth, late of Company H, Thirty-third Iowa Infantry, whom many of us have known for many years, even for a time before the late war of the rebellion, and know him to be a good citizen and deserving ex-soldier, would most respectfully ask that whereas your honorable bodies did both pass Senate bill No. 1253, granting a pension to said James D. Haworth because of disabilities incurred during his three years' service in the United States Army; and

Whereas Grover Cleveland, President of the United States, vetoed said bill, thus depriving a good soldier and honest citizen of his just dues; and

Whereas from what we know of the case personally we believe said soldier's claim to be a just one, and that he ought to be placed on the pension-list:

Therefore we most respectfully pray that each of your honorable bodies take such action as shall secure to him his just dues.

Mr. MCPHERSON. I present ten different petitions, signed by a large number of citizens of New Jersey, praying for the passage of eight different bills as heretofore stated. I move the reference of the petitions to the Committee on Finance.

The motion was agreed to.

Mr. GORMAN. I present a similar petition of James Finn and 24 other citizens of the sixth Congressional district of Maryland, praying for the passage of the eight bills referred to. I move the reference of the petition to the Committee on Finance.

The motion was agreed to.

Mr. RIDDLEBERGER presented the petition of Samuel Baker and 64 other citizens of the fifth Congressional district of Virginia, and the petition of George H. Wilson and 104 other citizens of the second Congressional district of Virginia, praying for the passage of certain bills in relation to the public lands, Presidential and Congressional elections, and the distribution of a part of the Treasury surplus; which were referred to the Committee on Finance.

Mr. HOAR presented the petition of Matthew McFarlan Lewey, late of Company D, Eleventh Massachusetts Volunteers, praying to be allowed an increase of pension; which was referred to the Committee on Pensions.

### REPORTS OF COMMITTEES.

Mr. BLAIR, from the Committee on Education and Labor, to whom was referred the bill (S. 2857) to grant leaves of absence to employes of the Bureau of Engraving and Printing, reported it with amendment.

Mr. BLAIR. I am directed by the Committee on Education and Labor, to whom was referred the joint resolution (S. R. 6) proposing an amendment to the Constitution in relation to alcoholic liquors and other poisonous beverages, to report it without amendment, and submit a report thereon. It is the report of the majority, and there may be views of the minority.

Mr. MCPHERSON, from the Committee on Naval Affairs, to whom was referred the bill (S. 2870) for the relief of Alfred B. Mullett, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

### CONVICT LABOR.

Mr. BLAIR. I am instructed by the Committee on Education and Labor, to whom was referred the joint resolution (H. Res. 142) authorizing and directing the Commissioner of Labor to make an investigation as to convict labor, and for other purposes, to report it without amendment.

As this is simply directory to the Commissioner with reference to the discharge of his duties, and requires that he may make this investigation during the present year out of funds already appropriated for the expenses of his bureau, I ask that the joint resolution be put on its passage.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the joint resolution; which was read, as follows:

Resolved, &c., That the Commissioner of Labor be, and he is hereby, authorized and directed, under the direction of the Secretary of the Interior, to make a full investigation as to the kind and amount of work performed in the penal institutions of the several States and Territories of the United States and the District of Columbia, as to the methods under which convicts are or may be employed, and as to all the facts pertaining to convict labor and the influence of the same upon the industries of the country, and embody the results of such investigation in his second annual report to the Secretary of the Interior: Provided, That the investigation hereby authorized can be carried out under the appropriations made for the expenses of the Bureau of Labor for the fiscal year ending June 30, 1887.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

### ALASKA AND BRITISH COLUMBIA BOUNDARY.

Mr. MANDERSON. There came to the Committee on Printing a report of the Secretary of State relative to the frontier line between Alaska and the British possessions. This report was accompanied by numerous maps bearing upon the subject, and the question of their printing was referred to the Committee on Printing. The committee upon investigation found that the cost of the reproduction of the maps, many of which are in print, would be some six or seven thousand dollars. The committee took the liberty of consultation with the Secretary of State, who has withdrawn his demand for the printing of these voluminous maps, and selected but one or two of the number needed to be reproduced.

We find that the cost of printing the accompanying documents thus reduced will be, for the usual number, \$450, and for 100 additional for the State Department, \$36.30.

I ask that the report and accompanying resolution be read and now considered, providing that the usual number be printed, and 100 additional copies for the use of the State Department.

The PRESIDENT *pro tempore*. The report will be read.

The Chief Clerk read the report and resolution, as follows:

The Committee on Printing, to whom was referred the map and documents accompanying the message from the President of the United States on the location of the frontier line between Alaska and British Columbia, having considered the same, respectfully report:

The message of the President of the United States dated May 17, 1886, was accompanied by a report from the Secretary of State, with accompanying papers and several maps. The message was read and ordered to be printed, and the accompanying maps and documents were referred to the Committee on Printing.

The committee found on examination that the publication, or rather republication, of the larger portion of the documents accompanying the report of the Secretary of State might be dispensed with, and on calling the attention of the Secretary of State to the fact that it already existed in print he withdrew it.

Your committee recommend the printing of the report of the Secretary of State with the accompanying maps and documents, and that 100 additional copies be printed for the use of the Department of State.

Resolved, That the documents and maps accompanying the message of the President of the United States on the location of the boundary line between Alaska and British Columbia be printed, and that 100 additional copies be printed for the Department of State.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution reported by the committee.

The resolution was agreed to.

### MAP OF UNITED STATES.

Mr. MANDERSON. I am also directed by the Committee on Printing to report back favorably with amendments the joint resolution (H. Res. 160) to authorize the Commissioner of the General Land Office to

cause 15,000 copies of the map of the United States and Territories to be printed. I ask for its present consideration.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The amendments reported by the Committee on Printing were, in line 6, after the word "each," to strike out "15,000" and insert "3,500;" in line 8, to strike out "4,500" and insert "1,000;" in line 9, to strike out "10,000" and insert "2,000;" and in line 12, before the word "dollars," to strike out "twenty thousand two hundred and fifty" and insert "four thousand seven hundred and twenty-five;" so as to make the joint resolution read:

*Be it resolved, &c.,* That the Commissioner of the General Land Office be, and he is hereby, directed to cause to be printed, under the existing contract, at a rate not exceeding \$1.35 each, 3,500 additional copies of the map of the United States, edition of 1885; 1,000 of which shall be for the use of the Senate, and 2,000 copies for the use of the House of Representatives, and 500 copies for the use of the Commissioner of the General Land Office; and the sum of \$4,725, or so much thereof as may be necessary, is hereby appropriated for that purpose out of any money in the Treasury not otherwise appropriated.

The amendments were agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

The title was amended so as to read: "A joint resolution to authorize the Commissioner of the General Land Office to cause 3,500 copies of the map of the United States and Territories to be printed."

Mr. MANDERSON. I move that the Senate insist on its amendments, and ask for a committee of conference with the House of Representatives.

The motion was agreed to.

By unanimous consent the President *pro tempore* was authorized to appoint the conferees on the part of the Senate, and Mr. MANDERSON, Mr. HAWLEY, and Mr. GORMAN were appointed.

#### REPORTS OF CONGRESSIONAL COMMITTEES.

Mr. MANDERSON. I am also directed by the Committee on Printing to report favorably without amendment the joint resolution (H. Res. 22) authorizing the preparation of a compilation of the reports of committees of the Senate and House of Representatives. I ask for its present consideration.

By unanimous consent, the Senate as in Committee of the Whole, proceeded to consider the joint resolution. It provides that there shall be prepared, under the direction of the Joint Committee on Printing, a compilation of the reports of the Senate and House of Representatives from the Fourteenth to the Forty-eighth Congress, inclusive, classified by committees, arranged, indexed, and bound in suitable volumes, for the use of the standing committees of the two Houses of Congress, and appropriates \$7,750 for the preparation of the work.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### DIGEST OF OPINIONS OF ATTORNEYS-GENERAL.

Mr. MANDERSON. I am also directed by the Committee on Printing to report back the concurrent resolution submitted by the Senator from Missouri [Mr. COCKRELL] July 7, 1886, for printing 6,000 additional copies of the Digest of the Official Opinions of the Attorneys-General of the United States from 1789 to 1881, and I ask for its present consideration.

By unanimous consent, the Senate proceeded to consider the resolution, which was read, as follows:

*Resolved by the Senate (the House of Representatives concurring),* That there be printed 6,000 additional copies of the Digest of the Official Opinions of the Attorneys-General of the United States from 1789 to 1881; of which 2,000 copies shall be for the use of the Senate and 4,000 copies for the use of the House of Representatives.

Mr. HOAR. We ought to have added a digest of the opinions of the Attorneys-General down to the present date, which could be added in a very short time by a clerk there, because otherwise this document will have grown old like an old edition of an encyclopedia before it is published; it will be born worthless. I move to add to the resolution:

With which shall be included a digest of such official opinions from 1881 to the date of publication.

Mr. MANDERSON. I do not object to that amendment.

Mr. COCKRELL. I hope the amendment suggested by the Senator from Massachusetts will be made. It will not cost much labor.

Mr. MANDERSON. I have no objection to it.

The amendment was agreed to.

The concurrent resolution as amended was agreed to.

#### ELECTRICAL CONFERENCE REPORT.

Mr. MANDERSON. I am also directed by the Committee on Printing to report back a Senate concurrent resolution to print 2,500 additional copies of the report of the electrical conference at Philadelphia in 1884. I ask that it be considered at this time and that a letter from the State Department in connection therewith be read.

By unanimous consent the Senate proceeded to consider the concur-

rent resolution, which had been submitted by Mr. MANDERSON March 23, 1886, as follows:

*Resolved by the Senate (the House of Representatives concurring),* That there be printed and bound in cloth 2,500 additional copies of the report of the electrical conference at Philadelphia in 1884, being Senate Executive Document No. 45, Forty-ninth Congress, first session, for the use of the Department of State.

The PRESIDENT *pro tempore*. The accompanying letter from the Secretary of State will be read.

The Chief Clerk read as follows:

DEPARTMENT OF STATE, Washington, March 22, 1886.

SIR: The report of the United States Electrical Commission, together with the proceedings of the national conference of electricians in 1884, was communicated to Congress by the President on the 25th of January last and is now going through the press.

As it is desirable that copies of this report should be furnished to all the delegates participating in the conference, and it being deemed advisable, with a view to the dissemination of the important results of the conference, to furnish foreign governments also with copies of the report, I therefore have the honor to recommend that 2,500 additional copies be printed for the purpose herein expressed. Inclosing a draught of a resolution,

I have the honor to be, sir, your obedient servant,

T. F. BAYARD.

Hon. CHARLES F. MANDERSON,  
Chairman Committee on Printing, Senate.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

The concurrent resolution was agreed to.

THOMAS R. WARE.

Mr. GEORGE. I am directed by the Committee on the Judiciary to report favorably without amendment the bill (H. R. 7381) to remove the political disabilities of Thomas R. Ware, of Virginia, and I ask unanimous consent that the bill may be put on its passage.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed, two-thirds of the Senators present voting in the affirmative.

#### MINT REPORT.

Mr. GORMAN. I am instructed by the Committee on Printing to report favorably with amendments the concurrent resolution of the House of Representatives for printing the report of the Director of the Mint on the production of the precious metals in the United States. I ask for its present consideration.

By unanimous consent the Senate proceeded to consider the concurrent resolution; which was read, as follows:

*Resolved by the House of Representatives (the Senate concurring),* That the report of the Director of the Mint on the production of the precious metals in the United States for the year 1885 be printed, and that 6,000 extra copies be printed; 4,000 copies for the use of the House of Representatives, 2,000 copies for the use of the Senate.

The amendments of the Committee on Printing were, in line 6, to strike out "six" and insert "nine;" and at the end of the resolution to add: "And 3,000 copies for the use of the Director of the Mint;" so as to make the resolution read:

*Resolved by the House of Representatives (the Senate concurring),* That the report of the Director of the Mint on the production of the precious metals in the United States for the year 1885 be printed, and that 9,000 extra copies be printed; 4,000 copies for the use of the House of Representatives, 2,000 copies for the use of the Senate, and 3,000 copies for the use of the Director of the Mint.

The amendments were agreed to.

The concurrent resolution as amended was agreed to.

Mr. GORMAN. I move that the Senate insist on its amendments and ask for a conference with the House of Representatives thereon.

The motion was agreed to.

By unanimous consent the President *pro tempore* was authorized to appoint the conferees on the part of the Senate, and Mr. GORMAN, Mr. MANDERSON, and Mr. HAWLEY were appointed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed a bill (H. R. 6664) to increase the naval establishment; in which it requested the concurrence of the Senate.

#### BILLS INTRODUCED.

Mr. VEST introduced a bill (S. 2875) to determine and settle final accounts of accounts due to and from the United States Government, and for other purposes; which was read twice by its title, and referred to the Committee on Finance.

Mr. CALL (by request) introduced a bill (S. 2876) to transfer a certain lot or tract of land in the city of Saint Augustine, Fla., known as the "Old Powder-House" lot, to the city of Saint Augustine, Fla., in trust, for educational, library, and park purposes; which was read twice by its title, and referred to the Committee on the Public Lands.

#### A. K. CUTTING.

Mr. INGALLS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved,* That the President be requested, if not incompatible with the public interests, to communicate to the Senate such information as may be in his possession concerning the alleged illegal detention of A. K. Cutting, an American

citizen, by the Mexican authorities at El Paso del Norte, and also whether any additional United States troops have been recently ordered to Fort Bliss.

#### LOUISIANA PRIVATE LAND CLAIMS.

The PRESIDENT *pro tempore*. If there be no further "concurrent or other resolution," the Chair lays before the Senate a resolution which comes over under objection.

The Chief Clerk read the following resolution, submitted by Mr. GIBSON July 24, 1886:

*Resolved by the Senate of the United States, That the Secretary of the Interior is hereby directed to inform the Senate, on or before its next regular session, what progress has been made annually by the surveyor-general of Louisiana in satisfying and adjusting the confirmed and unsatisfied private land claims in said State, as required by the third section of the act of Congress approved June 2, 1858, entitled "An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes."*

And especially to inform the Senate—  
First. The whole number and aggregate quantity, as near as may be, of said claims in the said State wholly or partially unsatisfied at the date of said act and entitled to relief under its provisions.

Second. The number and aggregate quantity of said claims finally satisfied and adjusted under said act, and the number and aggregate quantity remaining unsatisfied.

Third. What defect, in his opinion, if any, in existing laws, executive regulations and decisions, or otherwise, impedes the adjustment of said claims under said law, and what new legislation and changes in said regulations and decisions, if any, are required, in his opinion, to enable the said surveyor-general to finally adjust and settle said claims.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. HOAR. I think it was the intention of the Senator from Louisiana to strike out a portion of the third clause of the resolution.

Mr. GIBSON. If the Senator from Massachusetts insists upon it, I have no objection. I think it is quite usual for the Secretaries to come before the committees of Congress and make suggestions and give information.

Mr. HOAR. We have a right to direct the Departments to furnish evidence and facts or documents in their possession, but I do not think we have a right to require them to express an opinion. I do not think we have a right to give an order which the Department is under no obligation to obey.

Mr. GIBSON. I have no desire to insist on retaining that portion of the third clause. I wish to say, however, to the Senator from Massachusetts that this resolution was submitted to the Secretary of the Interior, and he had no objection to it whatever. I offered it by request. I will ask that the resolution be amended by striking out the concluding lines of the third clause, which direct the Secretary of the Interior to report what new legislation, &c., is, in his opinion, required.

Mr. HOAR. The objection was made by the Senator from Vermont [Mr. EDMUNDS].

Mr. PLUMB. I wish to say that I do not think the resolution is unusual in form. I certainly think I remember the Senate having adopted resolutions calling on various Secretaries for a statement as to what, if any, legislation would be necessary to accomplish certain objects. It is the suggestion of a form from the Department which has finally to administer the law, and I do not think it would be amenable to any of the objections which the Senator from Massachusetts has stated.

Mr. HOAR. The Senator will pardon me. I do not know whether there be any precedent or not, but I thought when the Senator from Vermont made his point the other day that it was well taken, and that if any such practice ever existed it was an irregular one and puts the Departments into a new and awkward relation with the President. The President has the right to recommend to us such legislation as he sees fit, and when such recommendation comes from the heads of Departments it comes in reports made to the President and by him forwarded either with or without his indorsement, but it comes from him.

It seems to me without the intervention of the President, for each head of an Executive Department to recommend such legislation as he thinks best, especially when directed to do it, would make a very irregular relation between the Departments and the President. Suppose the head of each of these Departments happened to differ with the President about some matter in his Department, or to make a recommendation to Congress one way and the President the other. Of course this particular case is an unimportant one, but it seems to me if we want suggestions about the recommendations of a Department we should apply to the President, and he should obtain from the head of the Departments the suggestions and transmit them to Congress.

Mr. GIBSON. I concur in the theory stated by the Senator from Massachusetts. Technically it is correct; but I think a different practice has prevailed for many years. We are in the custom of calling the Secretaries before our committees and calling upon them for information and suggestions.

Mr. PLUMB. And we send bills to them for their approval or suggestions of amendment.

Mr. GIBSON. Certainly. This body has often called on the Secretary of the Treasury to give suggestions as to what legislation was necessary in relation to the finances of the country, or funding the public debt and various measures which he does without having consulted the President at all. I will modify my resolution, however.

The PRESIDENT *pro tempore*. The Senator from Louisiana modifies the resolution. The proposed modification will be stated.

The CHIEF CLERK. It is proposed to strike out the latter part of the third clause of the resolution in the following words:

And what new legislation and changes in said regulations and decisions, if any, are required, in his opinion, to enable the said surveyor-general to finally adjust and settle said claims.

So as to make the resolution read:

*Resolved by the Senate of the United States, That the Secretary of the Interior is hereby directed to inform the Senate, on or before its next regular session, what progress has been made annually by the surveyor-general of Louisiana in satisfying and adjusting the confirmed and unsatisfied private land claims in said State, as required by the third section of the act of Congress approved June 2, 1858, entitled "An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes."*

And especially to inform the Senate—  
First. The whole number and aggregate quantity, as near as may be, of said claims in the said State wholly or partially unsatisfied at the date of said act and entitled to relief under its provisions.

Second. The number and aggregate quantity of said claims finally satisfied and adjusted under said act, and the number and aggregate quantity remaining unsatisfied.

Third. What defect in his opinion, if any, in existing laws, executive regulations and decisions, or otherwise, impedes the adjustment of said claims under said law.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution as modified.

The resolution as modified was agreed to.

#### TREASURY SURPLUS.

The PRESIDENT *pro tempore*. The Chair lays before the Senate as a part of the morning business a resolution submitted by the Senator from Texas [Mr. COKE] which comes over under objection.

The resolution submitted July 24, 1886, by Mr. COKE was read, as follows:

*Resolved, That the Committee on Finance be discharged from the further consideration of House joint resolution No. 126, "directing payment of the surplus in the Treasury on the public debt."*

Mr. COKE. I ask that House joint resolution 126, referred to in my resolution, be read.

The PRESIDENT *pro tempore*. The Chair feels authorized as a member of the Committee on Finance to state to the Senator from Texas that the joint resolution will in all human probability be reported to-morrow from that committee. Whether the Senator would care about pressing the resolution under that statement, it is for him to determine.

Mr. COKE. I shall not press the resolution this morning upon the information given me by the Chair. My object is to get the joint resolution before the Senate. It is a matter of great importance to the country and to the Treasury Department. The joint resolution was passed by the House of Representatives on the 14th of July. It has been since that time in the Senate. The session is drawing to a close, and it ought to be acted on during this session of Congress.

I am satisfied with the statement of the Chair that the joint resolution will be reported to-morrow, and will agree that my resolution may go over.

The PRESIDENT *pro tempore*. The resolution will be passed over.

#### DISTRICT STREET RAILROADS.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a resolution submitted by the Senator from Missouri [Mr. VEST] which comes over under objection. It will be read.

The Chief Clerk read the resolution submitted by Mr. VEST July 24, 1886, as follows:

*Resolved, That the Committee on the Judiciary be instructed to inquire whether the chartered rights and powers of the corporations owning and operating street railroads in the city of Washington, D. C., are such as to prevent appropriate legislation by Congress requiring said corporations to remove or alter the rails now used by them, and the road-beds of said roads as now constructed within said city; and that the committee report in writing to the Senate on the first Monday in December next, or as soon thereafter as practicable.*

Mr. VEST. Since offering the resolution I have had a conversation with the chairman of the Committee on the District of Columbia. This matter, I find, is pending substantially before that committee. I ask unanimous consent to modify the resolution so as to make it read "that the Committee on the District of Columbia be instructed," and let the resolution then go to that committee.

The PRESIDENT *pro tempore*. The Senator has a right to modify the resolution; and as amended it will be referred to the Committee on the District of Columbia.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7087) authorizing and directing the Secretary of the Interior to extend the time for the payment of the purchase-money on the sale of the reservation of the Otoe and Missouri tribes of Indians in the States of Nebraska and Kansas.

The message also announced that the House still further insisted upon its disagreement to the amendments of the Senate numbered 2, 17, 88, 179, and 180 to the bill (H. R. 8974) making appropriations for

the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1887, and for other purposes, agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HOLMAN, Mr. CABELL, and Mr. CANNON managers at the further conference on the part of the House.

#### FORTIFICATION APPROPRIATION BILL.

Mr. DAWES. The Committee on Appropriations, to whom was referred the bill (H. R. 9798) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1887, and for other purposes, have instructed me to report the same back with amendments. I give notice that as soon as the deficiency bill is disposed of, or as early thereafter as practicable, I will call this bill up for action.

#### OTOE AND MISSOURIA LANDS.

Mr. DAWES submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7087) authorizing and directing the Secretary of the Interior to extend the time for the payment of the purchase-money on the sale of the reservation of the Otoe and Missouri tribes of Indians, in the States of Nebraska and Kansas, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to said bill, and agree to the same, with an amendment as follows: Add to said Senate amendment the following: "Provided further, That no forfeiture shall be deemed to have accrued solely because of a default in payment of principal or interest becoming due April 30, 1886, if the interest due upon said date shall be paid within sixty days after the passage of this act."

And that the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same.

H. L. DAWES,  
BENJ. HARRISON,  
S. B. MAXEY,  
*Managers on the part of the Senate.*  
OLIN WELLBORN,  
T. G. SKINNER,  
B. W. PERKINS,  
*Managers on the part of the House.*

The report was concurred in.

#### WILLIAM P. CHAMBLISS.

Mr. MANDERSON. I wish to call attention to the fact that the bill (H. R. 68) for the relief of William P. Chambliss, that passed by a mistake occurring in the House, contains a wrong initial. I therefore move to reconsider the vote by which the Senate agreed to the conference report on that bill.

The PRESIDING OFFICER (Mr. HAWLEY in the chair). The Senator from Nebraska moves to reconsider the vote by which the Senate agreed to the report of the committee of conference on House bill No. 68.

The motion was agreed to.

Mr. MANDERSON. I now present a new conference report, that I ask may be read.

The Chief Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 68) for the relief of William P. Chambliss, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 1.

Strike out the name of William B. Chambliss wherever it appears in the bill and insert the name of William P. Chambliss.

CHARLES F. MANDERSON,  
JOHN A. LOGAN,  
*Conferees on the part of the Senate.*  
FRANK L. WOLFORD,  
JOSEPH WHEELER,  
*Conferees on the part of the House of Representatives.*

The report was concurred in.

#### HOUSE BILL REFERRED.

The bill (H. R. 6664) to increase the naval establishment was read twice by its title, and referred to the Committee on Naval Affairs.

#### COURTS IN COLORADO.

Mr. TELLER. I desire to enter a motion to reconsider an amendment made by the Senate to House bill 3014. I ask that the bill may be recalled from the House.

Mr. HARRIS. What is the bill?

Mr. TELLER. A local bill. I ask unanimous consent to reconsider the amendment made by the Senate to the bill (H. R. 3014) to provide or terms of court in Colorado.

The PRESIDING OFFICER. The Senator from Colorado desires to reconsider the bill, as the Chair understands.

Mr. TELLER. I ask to recall the bill from the House of Representatives, and I wish to enter a motion to reconsider the amendment.

Mr. HARRIS. I suggest that the Senator move to reconsider the vote by which the bill passed. That is the way to get at his object, and then ask the House to return the bill.

Mr. TELLER. Very well. I should like to have my request put in such a way that it will accomplish what I want.

The PRESIDING OFFICER. The Senator from Colorado enters a motion to reconsider the vote by which the bill was passed, and also moves that the House of Representatives be requested to return the bill.

Is there objection? The Chair hears none; and the order requesting the return of the bill will be made.

#### AMENDMENT TO A BILL.

Mr. MITCHELL, of Oregon, submitted an amendment intended to be proposed by him to the bill (H. R. 9736) to grant the Maricopa and Phoenix Railway Company of Arizona the right of way through the Gila River Indian reservation; which was referred to the Committee on Indian Affairs, and ordered to be printed.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate the following communication from the Secretary of the Treasury; which was referred to the Committee on Printing:

To the President *pro tempore* United States Senate.

Sir: I have the honor to transmit herewith, in compliance with Senate resolution dated the 24th instant, the compilation of the laws of the United States relating to loans and the currency, coinage, and banking, now being prepared in the Treasury Department.

It was the intention of the Department to include in the compilation any legislation which might be enacted during the present session of Congress, and it is respectfully suggested, if it be the pleasure of the Senate to direct the printing of the compilation, that it be returned to the Department for completion.

The index will be prepared when a pagged proof shall have been received.

Very respectfully,

C. S. FAIRCHILD,  
*Acting Secretary.*

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the 23d instant, a list of claims of volunteer soldiers adjusted by the accounting officers of the Treasury since the allowance of those embraced in House Executive Document No. 294, amounting to \$122,938.49.

Mr. COCKRELL. Perhaps that had better lie on the table instead of being referred to the Committee on Appropriations, as I shall move it as an amendment to the deficiency bill.

Mr. ALLISON. Why print it? It can not be printed in time.

Mr. COCKRELL. It ought to be printed afterward, so as to show the reason for our action; but we do not want it taken away.

The PRESIDENT *pro tempore*. The communication will lie on the table, and the order to print withheld until the deficiency bill is disposed of.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. 5038) for the relief of Stephen Sauer;

A bill (H. R. 9208) to permit the entry free of duty of foreign goods for exhibition at the fourth biennial exhibition of the United States Bottlers' Protective Association;

A bill (S. 948) granting a pension to Joseph S. Moody;

A bill (S. 453) for the erection of a public building at Jacksonville, Fla.;

A bill (S. 1492) for the relief of Ellen Sadler, sister of John Sadler;

A bill (S. 1421) granting a pension to William H. Weaver;

Joint resolution (H. Res. 129) directing the Public Printer to forward the CONGRESSIONAL RECORD to our legations abroad; and

Joint resolution (H. Res. 54) to credit Lieutenants Giles B. Harber and William Schuetze with sea-duty and sea-pay while engaged in the search for Lieutenant Chipp and party, and also for the time employed in bringing home the remains of Lieutenant-Commander De Long and party.

#### DEFICIENCY APPROPRIATION BILL.

Mr. HALE. I move that the Senate proceed to the consideration of the deficiency appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 9726) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1886, and for prior years, and for other purposes.

Mr. BLAIR. Saturday I gave notice that during the morning hour to-day I would ask the Senate to consider pension cases, but the Senator having charge of the deficiency bill has satisfied me that it will facilitate the public business if I give way, and ask for a corresponding courtesy on his part to-morrow morning.

The PRESIDENT *pro tempore*. The Senate having by unanimous consent dispensed with the formal reading of the bill, it will be read now for action upon the amendments of the Committee on Appropriations. The reading will be proceeded with.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Appropriations was, in section 1, under the head of "Department of State," in the clause making appropriations "for contingent expenses Department of State, to pay outstanding accounts," line 26, after the word "dollars," to insert:

Unionist Gazette, Somerville, N. J., 78 cents; Washington Post, \$3; Baltimore Sun, \$6.00; National Republican, \$30; A. K. Williams, newspapers, \$11.80.

The amendment was agreed to.

The next amendment was, in section 1, line 30, to increase the total amount of the appropriation for contingent expenses Department of State, to pay outstanding accounts, from \$405.43 to \$517.61.

The amendment was agreed to.

The next amendment was, in section 1, after line 79, to insert:

Salaries of charges d'affaires *ad interim*: To supply a deficiency in the appropriation for salaries of charges d'affaires *ad interim*, \$8,100.  
To supply deficiencies in the appropriations for salaries of charges d'affaires *ad interim* for the fiscal years 1879 and 1880, \$30,000.

The amendment was agreed to.

The next amendment was, in section 1, after line 87, to insert:

Contingent expenses foreign missions: To enable the proper accounting officers, without the payment of any money from the Treasury, to settle the accounts of United States ministers and others on account of the appropriation for "contingent expenses of foreign missions" for the fiscal year ending June 30, 1885, by means of utilizing the entire appropriations under that head generally; and, without regard to the division of the amount between specified and unspecified objects, authority is hereby granted for that purpose.

The amendment was agreed to.

The next amendment was, in section 1, after line 97, to insert:

To enable the accounting officers, without the payment of any money from the Treasury, to allow and credit Gustavus Goward, secretary of legation of the United States in Japan, the sum of \$552.55, expended by him as bearer of dispatches from Washington to Tokio, Japan, in 1883, the same having been disallowed in his accounts.

The amendment was agreed to.

The next amendment was, in section 1, in the appropriations for "contingent expenses United States consulates," after line 153, to insert:

To pay Fulton Paul, late consul-general at Bucharest, for protest fees and expenses incurred by him on his draft for contingent expenses for second quarter of 1884, while consul at Odessa, Russia, returned to him on account of the exhaustion of the appropriation for contingent expenses United States consulates for the fiscal year ending June 30, 1884, \$22.50.

The amendment was agreed to.

The next amendment was, in section 1, after line 239, to insert:

Rent of court-house and jail in Japan: For payment of the annual rental of the court-house and jail at Tokio, Japan, for the year ending March 15, 1886, \$3,400.

The amendment was agreed to.

The next amendment was, in section 1, after line 267, to insert:

#### CIVIL SERVICE COMMISSION.

To pay amount found due by the accounting officers of the Treasury on account of contingent expenses, Civil Service Commission, being for the service of the fiscal year 1885, \$73.62.

The amendment was agreed to.

The next amendment was, under the head of "Treasury Department," in section 1, after line 329, to insert:

#### Coast and Geodetic Survey:

For party expenses Coast and Geodetic Survey, being a deficiency for the fiscal year 1885, \$518.75.

For furnishing points for State surveys, being a deficiency for the fiscal year 1885, \$350.50.

For general expenses Coast and Geodetic Survey, being a deficiency for the fiscal year 1885, \$1,498.33.

For expense of lithographing illustrations for the Coast and Geodetic Survey annual report, during the fiscal year 1882, \$75.

The amendment was agreed to.

The next amendment was, in section 1, after line 355, to insert:

For heating, hoisting, and ventilating apparatus, and for repairs to the same, for court-house and post-office building in New York, \$4,692.

The amendment was agreed to.

The next amendment was, in section 1, after line 359, to insert:

To pay Mrs. Imogene Robinson Morrell for painting the portraits of Howell Cobb and John C. Spence, ex-Secretaries of the Treasury, \$1,000.

The amendment was agreed to.

The next amendment was, in section 1, to strike out the clause from line 380 to line 391, inclusive, as follows:

For repayment to importers the excess of deposits for unascertained duties, or duties or other moneys paid under protest, including interest and costs in judgment cases, the balance of the appropriation made by the deficiency act of August 5, 1882 (22 Statutes, page 260), for the purposes mentioned, and carried to the surplus fund June 30, 1885, amounting to \$248,574.59, is hereby reappropriated for the same object and under the same limitations.

The amendment was agreed to.

The next amendment was, in section 1, after line 432, to insert:

For the maintenance of the United States carp-ponds in Washington and elsewhere, and the distribution of the young fish, including salaries or compensation of all necessary employes, being a deficiency for the fiscal year 1884, \$226.03.

The amendment was agreed to.

The next amendment was, in section 1, after line 438, to insert:

For the maintenance of the vessels of the United States Fish Commission, including salaries or compensation of all necessary employes, being a deficiency for the fiscal year 1884, \$178.78.

The amendment was agreed to.

The next amendment was to strike out the clause from line 453 to 455 of section 1, as follows:

To pay George Wardman, late assistant agent at the seal fisheries in Alaska, salary from date of his removal to date of his arrival home, and traveling expenses incurred by him in proceeding to his home, \$696.25.

The amendment was agreed to.

The next amendment was, in section 1, after line 524, to insert:

In cases where vouchers and accounts based upon expenditures under appro-

priations heretofore made have been suspended or disallowed since January 1, 1885, the Secretary of the Treasury is hereby authorized and directed to cause to be revised by the accounting officers of the Treasury such disallowed or suspended accounts and vouchers; and upon such revision such accounts and vouchers, and payments covered by the same, shall be allowed by such accounting officers where it appears that the United States received and used or retained the consideration and value stipulated for by the appropriate executive officer of the Government who authorized and directed the payments in such cases to be made, or who authorized or directed the services rendered or the supplies or materials so furnished: *Provided*, That no fraud appears or is shown in such transaction.

The amendment was agreed to.

The next amendment was, in section 1, after line 540, to insert:

To enable the Secretary of the Treasury to pay a reasonable additional compensation to the employes of the Treasury Department who were actually employed during the months of July, August, September, and October, 1882, in addition to the usual business hours, on account of the work of exchanging bonds of the United States bearing 3½ per cent. interest for bonds bearing interest at the rate of 3 per cent. per annum, authorized by section 11 of "An act to enable national banking associations to extend their corporate existence, and for other purposes," approved July 12, 1882, to be paid by the said Secretary to those actually engaged as aforesaid, in such sums as shall seem to him to be just and equitable, as follows:

For employes in the division of loans and currency of the office of the Secretary of the Treasury, \$1,384.48; the office of the Secretary of the Treasury, \$1,384.48.

For employes in the division of records, files, and mail in said office, \$564.56.

For employes in the office of the Register of the Treasury, \$1,498.10.

For employes in the office of the Treasurer of the United States, \$999.80; in all, \$4,146.95.

The amendment was agreed to.

The next amendment was, in section 1, after line 567, to insert:

For expense of paving on Locust and Olive streets around the United States custom-house, Saint Louis, Mo., fiscal year 1884, \$6,169.39.

The amendment was agreed to.

The next amendment was, in section 1, after line 572, to insert:

That the Secretary of the Treasury is hereby authorized and directed to pay to the Alamo Cement Company of San Antonio, Tex., for work done and material furnished by said company in constructing a permanent pavement around the United States arsenal in the city of San Antonio, Tex., \$8,233.13.

The amendment was agreed to.

The next amendment was, under the head of "District of Columbia," in section 1, after line 624, to insert:

For completion of the boundary sewer, \$20,000.

The amendment was agreed to.

The next amendment was, in section 1, line 686, after the words "submit to," to strike out:

The board of engineers for fortifications and for river and harbor improvements whether any changes are demanded for reasons of safety or economy in the method of lining said tunnel heretofore adopted and pursued.

And in lieu thereof to insert:

A board consisting of two expert civilian engineers and two officers of the Corps of United States Engineers whether any and what changes are demanded for reasons of safety or economy in the entire system of the new water supply, including the reservoir and the method of constructing and lining said tunnel; and said board shall make full report thereon to the Secretary of War before such work shall be resumed.

So as to read:

Increase of water supply, Washington, D. C.: To enable the Secretary of War to complete the work of increasing the water supply of the city of Washington under the act entitled "An act to increase the water supply of the city of Washington, and for other purposes," approved July 15, 1882, namely: To complete the reservoir, \$160,000; to complete the tunnel, \$395,000; in all, \$555,000, or so much thereof as may be necessary; but the Secretary of War is instructed forthwith, and before resuming work on said tunnel, to submit to a board consisting of two expert civilian engineers and two officers of the Corps of United States Engineers whether any and what changes are demanded for reasons of safety or economy in the entire system of the new water supply, including the reservoir and the method of constructing and lining said tunnel; and said board shall make full report thereon to the Secretary of War before such work shall be resumed.

Mr. SHERMAN (Mr. HAWLEY in the chair). This is a very important amendment and I wish the attention of the Senate to it. The Senate seems to be taking this bill as a matter of course and I am disposed to do so; but, at the same time, there are some provisions in it which should be looked at.

This amendment proposes to stop the construction of the work for the supply of water for the city of Washington until a board of civil engineers shall review the plan of the military engineers and the matter is settled hereafter by the action of the Secretary of War or of Congress.

If the Senate wish to stop during the whole of this season and perhaps the next the construction of the water-works to supply the city of Washington with water they ought to agree to this amendment, because the amendment does do it if it is left to stand.

I have inquired of the members of the Committee on Appropriations what they desire, and I have no objection to what they really desire, but their amendment goes far beyond what they seek to accomplish. A member of that committee tells me that they fear the dam or the reservoir will not hold the supply of water but will leak; that it is not sufficiently protected. I have no objection to that part of the water-works being suspended, but the operation of this clause as it now stands would suspend the whole work until a board of civil engineers, to be hereafter organized, shall have examined all the plans of the board of military engineers under which the work is going on, and shall have reported to the Secretary of War; and until the matter is disposed of the work on the whole improvement is stopped.

As a matter of course, when this report is made to the Secretary of War he can not act upon it; he has no power to decide that dispute; and he must wait to communicate the information to Congress; so that the amendment stops the whole work until the next session of Congress, and even then when we come here we shall not be in a very good condition to decide an engineering problem between a board of civil engineers and a board of military engineers. If the committee are willing to strike out the last five words in the clause, "and said board shall make full report thereon to the Secretary of War before such work shall be resumed," I shall have no objection. I wish simply to strike out the words suspending the operation of the work.

Mr. VOORHEES. There would have to be an amendment in line 685 also striking out "and before resuming work on the said tunnel."

Mr. HALE. No, those words should not be struck out. That clause is only submitting the question. I am entirely willing that the words indicated by the Senator from Ohio shall go out, because I am willing that the matter should be left to the discretion and judgment of the Secretary of War.

The committee has no desire to interrupt for a single day unnecessarily this great work, but there are serious alleged defects in the tunnel, so serious that if the work should proceed without a new examination and an overhauling of the work that has been done, all the money that has been expended would be useless and we should not get the supply that we want. I am willing that those words should be struck out, and that then the Secretary of War should make up this board; and I will say in passing that it is not a civil board, but it is a board to be composed of two expert civil engineers and two officers of the Corps of United States Engineers, that body in the service not being eliminated from the consideration and examination of this subject at all, but it is intended to get the best men that can be found, and I believe that in twenty days, or in thirty days at most, a report can be made giving a complete examination of this work and suggesting changes which the Secretary of War, I have no doubt, will be glad to accept and embody in the work.

For these reasons I am willing that those words, "before such work shall be resumed," after the words "Secretary of War," should come out.

Mr. PLUMB. The committee had information of the most reliable character to the effect that the bottom of this reservoir was porous quicksand and in such a condition generally as that it would not hold water and that it would have to be covered probably with a course of clay at least 10 feet deep thoroughly pounded down in order to make it a compact, solid mass at the bottom of the reservoir. There was other information too from similar authoritative sources in regard to the tunnel, which indicated that the whole scheme of construction had been defective to the last degree, and it was feared there might be some effort now to hide those defects of construction in such a way as to impose finally upon the public a work in reference to this most important matter of the water supply which would prove insecure and entirely insufficient for the purpose for which it was constructed; and at the threshold of this new appropriation, which is made to repair the errors and defects of former estimates, it was deemed wise to pause long enough to enable us to see whether or not we were building upon an insecure foundation before we cast any more money into this great reservoir which has been so effective in absorbing money heretofore without any useful result.

There will be necessarily no detention whatever, because the investigation in regard to this matter can be very speedily performed. The Secretary of War, as stated by the Senator from Maine, can very readily summon a board and have it at work and have the result of its work before him within thirty days at least in such a way as to resume operations on some portion of this tunnel or reservoir, unless it shall be found that the whole thing is in such a faulty shape that it had better be abandoned rather than to go ahead with it in its present shape in the way of repairs or something of that kind. While, of course, it is desirable to have a water supply, at the same time a water supply with a defective improvement is no more certain than it is without any improvement. The design of the committee simply is that there shall be a useful expenditure of the money and that the method of that useful expenditure shall be determined in advance of any further action being taken.

Mr. SHERMAN. The idea of the Senator from Kansas, and that seemed to inspire the Committee on Appropriations, is that the water is going to leak out of the reservoir that has been provided for the holding of the water. The same idea was entertained when General Meigs was prosecuting the work in the upper reservoir. A great many people said that if they took reservoirs up there, which were much larger than this one, the water would all leak out into the Potomac River before it would get down to the city of Washington; but skilled engineers knew very well that the water in the reservoir rests substantially upon the level of the Atlantic Ocean, and it is not at all likely to leak out.

If there should be even a stratum of quicksand at the bottom of this reservoir, it would come to a stratum of blue clay and other clay that holds water perfectly. The same difficulty might be said to have existed in the reservoir above. Senators have passed it a hundred times and there they see a great high bank and a large reservoir which protects

the water from going right over into the Potomac. There it has stood and there has been no leakage for twenty or thirty years.

This will be found a mere scare, a mere idea started for the purpose of getting up some scheme to compel a new contract and a new expenditure by the Government of the United States; that is what I believe. We have two great reservoirs now of this same water that is brought down to this new reservoir, and nobody ever heard of their leaking, although they are protected by much less secure banks than are built here. The bank built for the protection of the city in this case is one of the greatest works of the kind to be found anywhere. It is made enormously strong in order to prevent the possibility of its breaking and flooding this city. It is made under the direction of the most skilled engineers of the United States, including the whole engineer corps of the United States Army. Every one of these problems that are now talked about has been solved in the most careful manner, and this outcry is merely made by somebody, who no doubt may believe in it, who is endeavoring to stop this great work and compel some experiment by a new board of engineers.

I have no objection to an experiment being made; I have no objection to the appointment of this mixed commission to examine into the work of General Newton and the engineers who have charge of this work. Let them go and see it. All I want is that the work shall not be stopped. If there is any doubt about the safety of the reservoir, I want to know it.

Mr. HALE. That is all the committee want.

Mr. SHERMAN. Then strike out the last clause of the amendment.

Mr. HALE. Strike out the words "before such work shall be resumed."

Mr. SHERMAN. That is all I desire. I have no objection to the other part of the amendment.

Mr. VOORHEES. Allow me to ask the Senator from Ohio whether, if this board should agree upon different plans for the prosecution of this work, the continuous prosecution of it from now on would not be hazardous? Would it not be likely to interfere with any different plans? In other words, the Department would be pushing a work subject to an entire change of plan after a little while.

Mr. SHERMAN. No, the Senator is mistaken there. The only defect in this work, as I understand, is the reservoir up here; that is, they fear it will leak, but this money can all be properly and judiciously expended in making the tunnel.

Mr. PLUMB. No; the tunnel is defective. That defect has been ascertained.

Mr. SHERMAN. But upon a mere outcry, without any report from the engineers, is it worth while to stop this great work? I have no objection even to allowing the President of the United States to stop the execution of this work, or the Secretary of War to stop the execution of the work if he finds there is something in all this scare. But there is not anything in it. It is important to have this commission in order to dissipate a possibility; and if the work is only suspended upon the declaration or finding of the President of the United States that there is sufficient reason to believe that the plans have been defective, that would be different; but to stop it suddenly, merely because a report might be made by this mixed commission, is not wise. And even without the report, this amendment stops it until they make a report and until somebody acts on it.

Mr. HALE. I think we have it now so as to be satisfactory to everybody.

The PRESIDING OFFICER (Mr. HAWLEY in the chair). Will the Senator from Ohio please state his amendment.

Mr. SHERMAN. I move to strike out the last words in the amendment of the committee, "before such works shall be resumed."

The PRESIDING OFFICER. The question is on the amendment to the amendment.

Mr. GORMAN. Do I understand that the Senator from Maine accepts that amendment?

Mr. HALE. So far as I am concerned, I do not object to it. I am willing to leave it discretionary. Whether or not there are serious defects there I can not tell. There are a great many people who believe there are. If there are, a board selected in this way will report to the Secretary of War after an examination, and that will be beneficial, whether they recommend going on just as things are now, or whether they suggest some changes. It will tend to settle in the mind of the people this important question, and will show that the subject has been investigated. I am willing to strike out these words, as I have said, and leave the matter with the Secretary of War as to whether or not the work shall be entirely suspended.

Mr. GORMAN. I trust the Senate will not agree to this amendment to the amendment of the committee. I understood the Senator from Ohio [Mr. SHERMAN] to say that the proposition of the committee was for the purposes of those who wanted a new contract. I beg to say to the Senator that this whole question has originated with the United States Engineers, and it seems to be a very serious one. Captain Hoxie, who was formerly connected with the District government, is the designer of this tunnel and of the reservoir. I happened to serve with my friend from Tennessee [Mr. HARRIS] upon a subcommittee

that had the matter in charge originally. Captain Hoxie began the work, or, rather, the work was begun in conformity with his plan. Captain Hoxie was shortly after removed from Washington and the work was placed in the charge of another engineer.

Mr. HARRIS. He being in charge of it up to the time he was removed.

Mr. GORMAN. Up to the time he was transferred to some other place. Recently Captain Hoxie, in a public communication and in a communication addressed to the Appropriations Committee of the House, states that the original plans of the tunnel have been changed, that the location of the tunnel is now defective, that it has not been sunk as deep as was intended, nor is constructed in solid rock, and therefore it will of necessity require to be lined; and the question arises whether it shall be lined, contrary to the original plan, either with brick or with concrete—a difference in cost of some hundred or more thousand dollars.

But that is not all. The construction of the tunnel under Rock Creek coming down on an inclined plane on both sides, with no possibility of ever draining the tunnel or getting the water out in case of accident except by pumping it with the most powerful engines for weeks at a time, is a matter that nearly all engineers in the country say is a defect in the design and location.

As to the lining, the United States engineers who were before the committee and examined on the subject do not agree as to what shall be done. As to the construction of the reservoir I think I am perfectly within bounds when I say that there is a great difference of opinion; but it seems clear that a large part of the bottom of that reservoir is a quicksand, and it is doubtful to-day whether it can be made, within any reasonable cost, to hold water.

Certainly the United States Army officers, who have no special adaptation or experience in construction of works of this character, have misled Congress as to the cost of the work. I do not think I overstate it when I say it will cost two million and a half of dollars before it is completed; and, as I have said, the difficulty comes principally from placing the work in charge of gentlemen who have never had experience in this class of work, confiding it to young Army engineers who have thought more of the society of Washington than they have of making a great improvement here; and hence the Committee on Appropriations believed that the only way the Government could be protected was by bringing in two civil engineers, selected by the President of the United States, whose judgment should be had upon this work. I trust, therefore, that the amendment of the Senator from Ohio will not be agreed to.

Mr. PALMER. I should like to know of the committee if the work has been suspended, as the phraseology of this clause would seem to indicate when it says that work shall not be resumed. Can the Senator from Maine tell me?

Mr. PLUMB. The work has been suspended for some time. The appropriation was exhausted and it was ascertained that it was necessary to line the tunnel.

Mr. PALMER. I hope the amendment of the Senator from Ohio, which has been accepted by the member of the Committee on Appropriations in charge of the bill, will be adopted, or that the amendment will be adopted with that proviso. It is a well-known fact that the supply of water is deficient. There are a great many houses in K street, and it is so in a still greater degree when you come to a lower level, in which the occupants can not get water in their third stories and even in their second stories. It is very essential I think that this great work should be carried on. I do not know the animus of the amendment as incorporated in the bill, but it seems to me all the good to be accomplished can be accomplished by the amendment as amended by the Senator from Ohio.

I understand if the work is suspended for any length of time great damage will ensue from the infiltration of water and the percolation of water, and the necessary pumping will be greatly increased. On that account I think the discretion should be left with the Secretary of War, and the work should not be suspended authoritatively as it is in the committee's amendment.

Mr. INGALLS. I ask the Senator from Ohio how he secures the result he professes to desire by striking out in lines 696 and 697 the words which he proposes to omit after "Secretary of War," if he retains in lines 685 and 686 concerning the tunnel?

Mr. SHERMAN. The answer to that is that "the Secretary of War is instructed forthwith, and before resuming work on said tunnel, to submit to a board consisting of two expert civilian engineers and two officers of the Corps of United States Engineers," &c. He can do that any day. He need not await their report.

Mr. INGALLS. He is "instructed forthwith, and before resuming work on said tunnel, to submit the question to a board," &c. That is to say, the Secretary is required to obtain the opinion of a board before any work can be resumed or money expended on the tunnel.

This whole operation and the entire expenditure will be futile unless the work is to go on upon the tunnel; and having been familiar with this transaction from the beginning, having been a member of the Committee on the District of Columbia when the bill was passed for extending the water supply, I have followed the operations since with a

great deal of interest, and it is my deliberate opinion that the principal reason why there has been so much delay about completion of the tunnel is that sufficient money has not been appropriated and expended to put it in proper condition so as to prevent percolation. In other words, water has been allowed to infiltrate and accumulate in the apertures. It is true that the conjecture of the engineer was not entirely verified. He supposed, from surface examination and from borings, that the entire orifice would be made through solid rock; but no person can tell by examination of the surface of the earth what is underneath. So it turned out that in certain places the rock not being continuous the bore was through soft strata, which necessarily will require masonry for support, and hence the work has become more expensive than it otherwise would have been, and, in consequence of the failure to appropriate, much of the work has been obstructed from the infiltration of water and the subsequent destruction of the roof.

With regard to the reservoir I have conversed with Major Lydecker, Captain Hoxie, and other engineers who are familiar with the subject, and they all state affirmatively that nothing has thus far been disclosed in the excavation than might reasonably have been anticipated; certain alluvial deposits will have to be removed; but that on the whole the work is absolutely satisfactory, and there is no more uncertainty about a reservoir that will hold water satisfactorily being constructed there than there would be in any other place that might be selected. No quicksand has been discovered that can interfere with its security.

It will be a great calamity if the work on this tunnel and reservoir is permanently arrested. The health and convenience of the city require an additional water supply; and whether we have made mistakes, or whether we have not, so much money has been expended and so great progress made with this present system that returning would be as difficult as going over. Money may have been wasted, but it certainly will cost a great deal more to adopt a new plan and abandon what has been accomplished than it will to go on and appropriate the necessary amount for completing this present system under the most extravagant appropriations that have yet been estimated. I hope the committee will agree that, subject to an intelligent supervision by the Secretary of War of this work, it may be allowed to proceed and that the appropriations made by the House will not be hampered by any unnecessary limitation imposed upon the Secretary of War; and if the Senator from Maine is not strenuous about it, it occurs to me that it would be wise to strike out the proviso about the resumption of work on the tunnel in line 685, because the longer that work remains as it is now the greater is the destruction. Every day is a direct loss. They are doing the best they can to pump out the water that is in the perforation; but if it is to be completed then the sooner it is finished the better, and there ought not to be any delay depending upon the caprices of the Secretary of War or any one else unless we intend to abandon it. If we intend to go on with it, the sooner the money is begun to be expended the better it will be for all parties concerned and all interests involved.

Mr. VOORHEES. There has been a great deal of controversy over the subject we are now considering, and I see by the bill, as it is reported here with amendments, that the House of Representatives, where gentlemen of antagonistic views were heard before the proper committee, inserted that—

The Secretary of War is instructed forthwith, and before resuming work on said tunnel, to submit to the board of engineers for fortifications and for river and harbor improvements whether any changes are demanded for reasons of safety or economy in the method of lining said tunnel heretofore adopted and pursued.

It seems to have occurred to everybody, there seems to have been quite a unanimity on the subject of an examination and a resurvey, and all the difference proposed by the Senate amendment is as to the board to which this subject shall be submitted. The House provided that it be submitted to the board of engineers for fortifications and for river and harbor improvements, and the Senate Committee on Appropriations has simply amended it by striking that out and asking for a different board.

It was my desire mainly to call the attention of the Senator from Ohio and others who are taking an interest in this subject to the fact that the amendment complained of offered by the Committee on Appropriations of the Senate makes no change as to the suspension of the work contemplated by the bill when it reached here. It reached here with a provision for the suspension of the work until the board of engineers for fortifications and for river and harbor improvements can make this very examination. The Senator from Ohio dissents. I will read and see whether the Senator is right or not.

Mr. SHERMAN. It suspends work on the lining, not on other parts. There is a great deal of work going on at the dam and other work besides the lining. The House provision only suspended operations on the lining.

Mr. VOORHEES. I think there is the distinction which the Senator has pointed out, but I am strongly inclined to think that a general examination of the whole system as provided for by the committee is required. I have not been satisfied that there has been fair play on this subject for the last year. I never thought Captain Hoxie ought to have been ordered away in the midst of his great work. I regard him as the most competent man who has ever had charge of works of this

kind in the District of Columbia. For many years he was in charge of this and other Government works here, and no charge, no word was ever uttered against him.

As to his competency and his integrity there can be but one opinion. He was in the midst of this work on plans of his own creation when ordered away upon other duty; new men were placed in charge of it, and ever since that there has been difficulty and confusion. Captain Hoxie is a singularly modest man; he has made no complaint, but some observations he has submitted on this subject which I believe to be correct.

When this question first arose, as the Senator from Maryland [Mr. GORMAN] knows, I was not aware there had been a departure from the original plans. I was under the impression there had been a defective execution of the original plans rather, but I see it stated here that the original plans as they emanated from the War Department, and for which Captain Hoxie was responsible, have been departed from by those now in charge of this work, and I think it eminently proper that an examination of the entire system should be made before more money is expended.

Now the proposition of the Senator from Ohio involves this, that in face of the uncertainty as to whether these plans are the best or not those in charge of them shall go on and execute them, while at the very time side by side with their execution they are under investigation, to be changed perhaps by this new board. If there is a sufficient question as to the propriety and correctness of these plans as to call for an investigation, that very fact should cause a suspension of the work. If there is a query in the minds of legislators, if there is a doubt, that doubt should be solved before any additional money is buried in the ground under those rocks and hills. Some light should be thrown in. Therefore I concur with the Senator from Maryland in the hope that these four or five important words at the end of this amendment may not be stricken out, and that it shall stand as it is now:

And said board shall make full report thereon to the Secretary of War before such work shall be resumed.

"Resumed work" is what the Senator from Ohio insists upon, on defective plans, or upon plans that have been departed from. Are we to agree with him when he says it is a baseless clamor? Others think otherwise. There are people who think that these charges are well founded. At any rate there is a difference of opinion, so that upon a full examination in the House of Representatives the bill came over here as it was; and men of the highest reputation and standing in the service of the Engineer Corps have been examined, and they say that it is necessary before any other work is done that the method of lining the tunnel should be thoroughly examined to see what changes were necessary. The lining of a tunnel to bring water to this city or any place else is a very important matter. It is pretty much all there is of security to a tunnel. When the question is raised as to whether a tunnel is so lined as to hold water or not, I think we had better stop spending money, and not only investigate that, but while investigating that investigate other things besides.

Mr. PLUMB. I wish to say that I think this tunnel and this water improvement generally will be accelerated by the adoption of the amendment of the committee. The work has already been stopped. Very great doubt exists in the public mind, as I think it does in the minds of Senators and Members who have investigated the matter, whether or not the plans which are being proceeded on now are the very best, and whether they will not result in the expenditure of a large amount of money, and therefore require a large amount next year and the year thereafter. While this doubt exists, which has certainly substantial foundation so far, it seems to me it would be wiser to take counsel from the best possible sources before expending any more money; and, as I said before, it seems to me that will not really work delay, for the Secretary of War may have the report before him in thirty days. This science of water supply—because it is a science—is one of those things which have come to be understood very well by certain very eminent civil engineers, whose word has an authority on that subject which is not generally attributed to that of Army engineers.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio [Mr. SHERMAN] to the amendment of the Committee on Appropriations.

Mr. HALE. There are evidently two sides to this subject. My personal belief is that the most satisfactory way would be to adopt the amendment of the Senator from Ohio and go no further. I am willing for one to vote for that.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio, after the words "Secretary of War," in line 696 of the amendment reported by the committee, to strike out the words "before such work shall be resumed."

The amendment to the amendment was rejected.

Mr. INGALLS. Was there any motion pending about the same words in lines 685 and 686?

The PRESIDING OFFICER. There was not. The question is on the amendment of the Committee on Appropriations.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, under the head of "War Depart-

ment," in section 1, to strike out the clause from line 709 to 713 inclusive, as follows:

To pay Meredith H. Kidd amount found due him, on settlement numbered 55667, by the Second Auditor, on account of pay, &c., of the Army, \$237.84.

The amendment was agreed to.

The next amendment was, in section 1, after line 723, to insert:

To enable the Secretary of War to pay, out of the unexpended balance of the appropriation of \$57,500 made by the act approved August 5, 1882, for payment of awards growing out of the illness and burial of the late President Garfield, to Mrs. Blanche W. Woodward, widow of the late Surg. Joseph J. Woodward, United States Army, for especial and meritorious services rendered by her husband in the last illness of President Garfield, \$2,500.

The amendment was agreed to.

The next amendment was, in section 1, after line 723, to insert:

Army and Navy hospital, Hot Springs, Ark.: For completion of hospital, to put it in proper condition to receive patients, as enumerated in House Executive Document No. 62, page 15, first session Forty-ninth Congress, \$3,952.

The amendment was agreed to.

The next amendment was, in section 1, line 778, to reduce the total amount of the appropriation "for transportation of the Army, including baggage of the troops, when moving either by land or water," &c., from \$95,000 to \$85,000.

The amendment was agreed to.

The next amendment was, in section 1, line 805, after the word "dollars," to insert:

The same to be received in full compensation for such work up to the present time; and hereafter none of such work shall be done except under specific appropriations therefor made in advance.

So as to make the clause read:

To pay the American Graphic Company of New York city for making plates and publishing weather maps, during the fiscal year 1885 and 1886, \$5,750, the same to be received in full compensation for such work up to the present time; and hereafter none of such work shall be done except under specific appropriations therefor made in advance.

The amendment was agreed to.

The next amendment was, under the head of "Navy Department," in section 1, line 822, after the words "year 1884," to strike out "\$160.67" and insert "and prior years, \$538.39;" so as to make the clause read:

To pay amount found due by the accounting officers of the Treasury on account of the library, Navy Department, being for the service of the fiscal year 1884 and prior years, \$538.39.

The amendment was agreed to.

The next amendment was, in section 1, to strike out the clause from line 825 to line 829, inclusive, as follows:

That the sum of \$377.72 is hereby reappropriated to pay amount found due by the accounting officers of the Treasury on account of the library of the Navy Department for the fiscal year 1883.

The amendment was agreed to.

The next amendment was, in section 1, line 851, to strike out the head-line "Bureau of Navigation."

The amendment was agreed to.

The next amendment was, in section 1, line 864, to strike out the head-line "Bureau of Equipment and Recruiting."

The amendment was agreed to.

The next amendment was, in section 1, after line 898, to insert:

To supply a deficiency in the contingent service of the Bureau of Ordnance, \$2,500.

The amendment was agreed to.

The next amendment was, in section 1, after line 1060, to insert:

To enable the Secretary of the Navy to pay E. P. Nisson, as managing owner and agent for the other owners of the American schooner Viking, of San Francisco, the amount due, under charter-party dated April 17, 1885, for conveyance from Mare Island, California, to Kotzebue Sound, of fifteen officers and enlisted men, comprising the "expedition to make exploration in Northern Alaska," together with stores pertaining thereto, \$2,800.

The amendment was agreed to.

The next amendment was, in section 1, after line 1069, to insert:

To pay to Benjamin Atwood, late an acting master's mate in the United States Navy, the sum of \$150, for reimbursement for clothing lost by him in consequence of the destruction of the Iron Age.

The amendment was agreed to.

The next amendment was, under the head of "Interior Department," in section 1, line 1109, after the word "Gazette," to strike out "two thousand" and insert "five hundred;" so as to make the clause read:

For photolithographing or otherwise producing plates for the Patent Office Official Gazette, \$500.

The amendment was agreed to.

The next amendment was, in section 1, line 1115, after the word "session," to strike out "to be paid out of any moneys already appropriated for the Capitol terrace;" so as to make the clause read:

For the payment of the amount due Messrs. Middleton, Lane & Co. for material and labor furnished for north approach of United States Capitol terrace, as per statement, Executive Document No. 104, Forty-ninth Congress, first session, \$2,833.48.

The amendment was agreed to.

The next amendment was, in section 1, after line 1141, to insert:

The accounting officers of the Treasury are authorized and directed to credit

the accounts of Richard Joseph, late disbursing clerk, Department of the Interior, with the following disbursements, made in good faith and on properly approved vouchers, heretofore disallowed in the settlement of said disbursing clerk's accounts by the late accounting officers of the Treasury, namely:

Extension of the Government Printing Office: June 30, 1882, to Michael Brady, for rent of small building in rear of Government Printing Office, used as a workshop while engaged in the extension of the Printing Office, \$25.  
 Annual repairs United States Capitol: June 30, 1882, to Washington and Georgetown Railroad Company, for rent of frame building used by the engineer's office, Capitol Grounds, during the second quarter, 1882, \$120.  
 Salaries office Secretary of the Interior: June 30, 1880, to George W. Evans, extra services, \$200.  
 Expenses of the Tenth Census, \$11,329.52.

The amendment was agreed to.  
 The next amendment was, in the appropriations for "Indian affairs," in section 1, to strike out the following clause from line 1209 to line 1216, inclusive:

To enable the accounting officers to adjust certain appropriations on the books of the Department the sum of \$2,621.60 is hereby reappropriated, to be carried to the credit of appropriation "Fulfilling treaty with Seminoles," being amount found due this appropriation in the adjustment of the accounts of the late Douglas H. Cooper, United States Indian agent.

The amendment was agreed to.  
 The next amendment was, in section 1, to strike out the following clause from line 1217 to line 1229, inclusive:

That the Secretary of the Interior be, and he is hereby, authorized and directed to cause to be paid to the Western Miami Indians of Kansas, in the Indian Territory, out of the land fund to their credit in the United States Treasury, in cash, per capita, or to be expended in such other manner as he may consider best for their interest and welfare, the sum of \$9,495, in order to relieve their pressing wants and necessities, occasioned by the destruction of their crops and loss of cattle, hogs, and horses by disease during the summer and fall of the year 1885, to be available for expenditure until June 30, 1887.

The amendment was agreed to.  
 The next amendment was, in section 1, to strike out the following clause from line 1230 to line 1245:

For this amount to be paid to the Potawatomie Indians, or expended for their benefit under the direction of the Secretary of the Interior, being the difference between the amount paid to said Indians in currency in the years 1863, 1864, 1865, 1866, and 1867, and the sum due in coin, under their treaties of 1818 and 1829, as required to be ascertained by article 9 of their treaty of August 7, 1868, \$49,382.08; but this provision shall not be held as precedent hereafter for the regulation or decision of any controversy between the Government of the United States and any parties whatsoever.

The amendment was agreed to.  
 The next amendment was, in section 1, to strike out the following clause from line 1246 to line 1260, inclusive:

For pay of employes of the Round Valley Indian agency, California, being for services rendered during the fiscal years 1885 and 1886, namely: To G. W. Cummings, \$532.18; C. M. Brown, \$486.04; J. W. Hannah, \$131.65; P. G. Tuttle, \$809.83; A. Odell, \$280.80; S. B. Larimer, \$473.89; N. C. Salisbury, \$336.30; D. W. Reardon, \$123.41; in all, \$2,974.10.

The amendment was agreed to.  
 The next amendment was, in section 1, to strike out the clause from line 1261 to line 1265, inclusive, as follows:

Flora Skinner, widow of Dr. Gilbert A. Skinner, deceased, \$400, being the amount of salary due said Dr. Gilbert A. Skinner, Government physician at said agency at the time of his death; in all, \$400.

The amendment was agreed to.  
 The next amendment was, in section 1, after line 1265, to insert:

Lighting Capitol and grounds:  
 For payment of balance due for gas service for the fiscal year 1885, \$1,945.20; for balance due for gas service, electric lighting, pay of superintendent of meters, and for pay of one lamplighter for the fiscal year 1886, \$4,419.85; in all, \$6,365.05.

The amendment was agreed to.  
 The next amendment was, in section 1, after line 1275, to insert:

National Museum:  
 For expense of heating, lighting, and electrical and telephonic service, \$631.67.

The amendment was agreed to.  
 The next amendment was, under the head of "Department of Justice," in section 1, after line 1356, to insert:

The proper accounting officers of the Treasury are hereby authorized and directed to allow credit in the accounts of Lieut. W. P. Duvall, Fifth Artillery, United States Army, disbursing officer for the board of United States Executive Departments, New Orleans Exposition, for payments made, by order of the said board, for filling and engraving charts for the exhibit of the Department of Justice, amounting in all to \$81.75, as follows: December 1, 1884, to O. Mahon, \$37.50; December 1, 1884, to H. M. McNeal, \$10; December 3, 1884, to S. G. R. Raby, \$17; December 3, 1884, to James V. Kearny, \$17.25; the same not to involve the payment of any money from the Treasury.

The amendment was agreed to.  
 The next amendment was, in section 1, line 1376, after the word "courts," to strike out "twenty" and insert "fifty;" so as to make the clause read:

Fees and expenses of marshals: For fees and expenses of marshals, United States courts, \$50,000.

The amendment was agreed to.  
 The next amendment was, in section 1, line 1390, after the word "pay," to insert "to the legal representatives of," so as to make the clause read:

To enable the Attorney-General to pay to the legal representatives of Thomas Simons for services rendered in the case of the Choctaw Nation of Indians vs. The United States, in the Court of Claims, between June 3, 1885, and March 2, 1886, \$2,500.

The amendment was agreed to.  
 The next amendment was, in section 1, in the clause appropriating

\$50,000 "for fees of commissioners, and justices of the peace acting as commissioners," after the word "dollars," in line 1408, to strike out the words:

And hereafter the whole of the compensation and fees paid a commissioner, and to which he may be entitled, for services in the examination of criminal charges, shall not exceed eight hundred dollars per annum, or exceed that rate for any time less than a year.

The amendment was agreed to.  
 Mr. COCKRELL. In connection with the clause appropriating for a deficiency in commissioners' fees for 1885, lines 1417 to 1421, and for information which may be desired hereafter, I wish to call attention to a letter transmitted to me by the First Comptroller dated July 24, 1886. I ask that it be read.

The PRESIDENT *pro tempore*. The paper will be read.  
 The Secretary read as follows:

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,  
 Washington, D. C., July 24, 1886.

SIR: Complying with your request of the 22d to be informed as to the number, compensation, &c., of United States commissioners throughout the United States, I inclose herewith lists of all the commissioners who drew compensation from the United States during the fiscal years 1884 and 1885 respectively, and the amount of compensation so drawn, in the States of Maine, Connecticut, Vermont, Pennsylvania, Indiana, and Missouri. In the State of Massachusetts Mr. Henry L. Hallett was the only commissioner that rendered accounts against the United States, and the books of the Department do not show money paid to any other commissioner.

It has not been practicable, in the limited time at my command, to make the list embrace other States, but I will do so if desired.

I think, however, the information before you will show that legislation which would fix the maximum compensation of United States commissioners at \$500 a year would be legislation in the interest of the great body of commissioners throughout the country, and I do not entertain a doubt but it would be legislation in the interest of the United States. Some twenty-five commissioners might be found in the United States who by their system of absorbing business that should properly go to other commissioners—to commissioners nearer the locality in which the accused and the witnesses are resident—are responsible for the needless expenditure of fully one-fourth of the judiciary appropriations of the Government.

I suppose that the most easy, legitimate, and proper way to correct this evil would be for Congress to remove from commissioners the motive they have heretofore had that influenced them to useless activity and improper practices. I do not see why a commissioner should seek to draw business from every part of a judicial district, nor do I see why a deputy marshal should pass by two, three, or more commissioners with prisoners and witnesses in order to reach some particular commissioner.

If, however, the lawmakers should prefer that the accounting officers undertake to correct the evil herein referred to with the law as it stands at present, I am willing to do my whole duty in the matter.

Very respectfully,  
 M. J. DURHAM, Comptroller.

HON. F. M. COCKRELL,  
 United States Senate Chamber.

Mr. COCKRELL. I ask that the exhibit accompanying that letter be printed in the RECORD in connection with it, and I simply desire to call attention to a few statements.

The exhibit is as follows:

MAINE.	
W. S. Choate, Augusta, 1884.....	\$216 65
W. S. Choate, Augusta, 1885.....	232 40
E. M. Rand, Portland, 1884.....	704 65
E. M. Rand, Portland, 1885.....	731 95
Charles Hamlin, Bangor, 1884.....	
Charles Hamlin, Bangor, 1885.....	90 00
L. G. Downes, Calais, 1884.....	
L. G. Downes, Calais, 1885.....	18 30
E. F. Webb, Calais, 1884.....	
E. F. Webb, Calais, 1885.....	16 35
J. E. Badger, Augusta, 1884.....	12 15
J. E. Badger, Augusta, 1885.....	
VERMONT.	
Royal Tyler, Brattleborough, 1884.....	
Royal Tyler, Brattleborough, 1885.....	16 60
R. W. Clarke, Chelsea, 1884.....	
R. W. Clarke, Chelsea, 1885.....	11 25
T. Sibley, Bennington, 1884.....	11 25
T. Sibley, Bennington, 1885.....	
H. A. Harmon, Rutland, 1884.....	12 20
H. A. Harmon, Rutland, 1885.....	
B. B. Smalley, Burlington, 1884.....	28 00
B. B. Smalley, Burlington, 1885.....	
G. E. Johnson, Burlington, 1884.....	34 05
G. E. Johnson, Burlington, 1885.....	127 35
E. L. Waterman, Jamaica, 1884.....	42 50
E. L. Waterman, Jamaica, 1885.....	
C. W. Porter, Montpelier, 1884.....	17 50
C. W. Porter, Montpelier, 1885.....	10 85
A. P. Cross, Saint Albans, 1884.....	
A. P. Cross, Saint Albans, 1885.....	12 90
CONNECTICUT.	
E. E. Marvin, Hartford, 1884.....	288 35
E. E. Marvin, Hartford, 1885.....	118 70
Allen Teney, Norwich, 1884.....	6 80
Allen Teney, Norwich, 1885.....	29 50
Johnson T. Platt, New Haven, 1884.....	48 40
Johnson T. Platt, New Haven, 1885.....	96 45
INDIANA.	
C. G. McCord, Vincennes, 1884.....	25 80
C. G. McCord, Vincennes, 1885.....	12 15
W. A. Van Buren, Indianapolis, 1884.....	27 65
W. A. Van Buren, Indianapolis, 1885.....	19 30
J. W. Wartman, Evansville, 1884.....	159 70
J. W. Wartman, Evansville, 1885.....	54 20
C. Martindale, Indianapolis, 1884.....	151 60
C. Martindale, Indianapolis, 1885.....	210 95
H. J. Milligan, Indianapolis, 1884.....	68 25
H. J. Milligan, Indianapolis, 1885.....	55 20
J. G. Harrison, New Albany, 1884.....	

J. G. Harrison, New Albany, 1885.....	\$121 50	John H. Kimmons, Oxford, 1885.....	\$21 80
S. E. Williams, La Porte, 1884.....		W. G. Beanland, Oxford, 1884.....	
S. E. Williams, La Porte, 1885.....	13 19	W. G. Beanland, Oxford, 1885.....	5 00
J. B. Harper, Fort Wayne, 1884.....	12 00	E. Dismukes, Macon, 1884.....	
J. B. Harper, Fort Wayne, 1885.....	69 55	E. Dismukes, Macon, 1885.....	8 50
PENNSYLVANIA (EASTERN DISTRICT).			
Morris Kirkpatrick, Easton, 1884.....	19 60	L. M. Lowenburg, Vicksburg, 1884.....	13 40
Morris Kirkpatrick, Easton, 1885.....	53 75	L. M. Lowenburg, Vicksburg, 1885.....	
Henry Phillips, jr., Philadelphia, 1884.....	310 50	J. M. McKee, Jackson, 1884.....	30 05
Henry Phillips, jr., Philadelphia, 1885.....	95 35	J. M. McKee, Jackson, 1885.....	
John P. Hobart, Pottsville, 1884.....		Fred. Parsons, Natchez, 1884.....	14 50
John P. Hobart, Pottsville, 1885.....	45 45	Fred. Parsons, Natchez, 1884.....	8 45
Samuel Bell, Philadelphia, 1884.....	272 95	MISSISSIPPI (SOUTHERN DISTRICT).	
Samuel Bell, Philadelphia, 1885.....	882 75		
Charles Gibbons, Philadelphia, 1884.....	95 15		
Charles Gibbons, Philadelphia, 1885.....			
H. R. Edmunds, Philadelphia, 1884.....	203 35		
H. R. Edmunds, Philadelphia, 1885.....	302 90		
L. J. Wolfe, Harrisburg, 1884.....	84 80		
L. J. Wolfe, Harrisburg, 1885.....	15 55		
PENNSYLVANIA (WESTERN DISTRICT).			
F. W. Grant, Erie, 1884.....	33 10		
F. W. Grant, Erie, 1885.....	24 60		
G. Hahn, Wilkes Barre, 1884.....	124 55		
G. Hahn, Wilkes Barre, 1885.....	126 35		
J. W. Lingenfelter, Bedford, 1884.....			
J. W. Lingenfelter, Bedford, 1885.....	130 19		
S. C. McCandless, Pittsburgh, 1884.....	263 70		
S. C. McCandless, Pittsburgh, 1885.....	177 35		
J. O. Parmelee, Warren, 1884.....	16 70		
J. O. Parmelee, Warren, 1885.....			
J. M. Wilson, Scranton, 1884.....	79 95		
J. M. Wilson, Scranton, 1885.....			
B. S. Bently, Williamsport, 1884.....	25 20		
B. S. Bently, Williamsport, 1885.....	7 50		
D. S. Herron, Knox, 1884.....			
D. S. Herron, Knox, 1885.....	9 05		
N. Ewing, Uniontown, 1884.....			
N. Ewing, Uniontown, 1885.....	12 40		
J. H. McDevitt, Sunbury, 1884.....			
J. H. McDevitt, Sunbury, 1885.....	31 20		
J. W. Mix, Towanda, 1884.....	78 20		
J. W. Mix, Towanda, 1885.....	96 70		
A. G. Richmond, Meadville, 1884.....			
A. G. Richmond, Meadville, 1885.....	7 50		
Edmund Shaw, Altoona, 1884.....	23 50		
Edmund Shaw, Altoona, 1885.....			
H. E. Smith, Bloomsbury, 1884.....	81 75		
H. E. Smith, Bloomsbury, 1885.....			
S. C. Clarke, Washington, 1884.....	5 95		
S. C. Clarke, Washington, 1885.....	5 75		
S. B. Chase, Great Bend, 1884.....	2 40		
S. B. Chase, Great Bend, 1885.....			
W. A. Ambrose, Altoona, 1884.....			
W. A. Ambrose, Altoona, 1885.....	7 05		
James Doughty, Meadville, 1884.....			
James Doughty, Meadville, 1885.....	6 25		
W. A. Sober, Sunbury, 1884.....	57 25		
W. A. Sober, Sunbury, 1885.....			
MISSOURI (EASTERN DISTRICT).			
William Morgan, Saint Louis, 1884.....	468 90		
William Morgan, Saint Louis, 1885.....	442 30		
M. R. Cullen, Saint Louis, 1884.....	168 75		
M. R. Cullen, Saint Louis, 1885.....	153 80		
E. Higbee, Lancaster, 1884.....	18 45		
E. Higbee, Lancaster, 1885.....	18 45		
J. R. Musick, Kirksville, 1884.....	18 15		
J. R. Musick, Kirksville, 1885.....			
H. F. Millan, Kirksville, 1884.....	7 00		
H. F. Millan, Kirksville, 1885.....	32 05		
Bernard Zwart, Ironton, 1884.....	18 85		
Bernard Zwart, Ironton, 1885.....			
J. Holland, Saint Louis, 1884.....	63 00		
J. Holland, Saint Louis, 1885.....			
A. P. Selby, Saint Louis, 1884.....	57 70		
A. P. Selby, Saint Louis, 1885.....			
MISSOURI (WESTERN DISTRICT).			
McLain Jones, Springfield, 1884.....	1,340 85		
McLain Jones, Springfield, 1885.....	1,769 70		
F. W. Perkins, Kansas City, 1884.....	745 60		
F. W. Perkins, Kansas City, 1885.....	602 50		
J. W. Scott, Lebanon, 1884.....	588 35		
J. W. Scott, Lebanon, 1885.....	158 55		
W. A. Mills, Versailles, 1884.....	22 35		
W. A. Mills, Versailles, 1885.....			
H. W. Long, Jefferson City, 1884.....	34 75		
H. W. Long, Jefferson City, 1885.....			
E. G. Evans, Cuba, 1884.....	28 40		
E. G. Evans, Cuba, 1885.....	12 95		
L. A. Chapman, Chillicothe, 1884.....	17 00		
L. A. Chapman, Chillicothe, 1885.....	30 40		
S. G. Brock, Macon, 1884.....	51 15		
S. G. Brock, Macon, 1885.....			
Arthur Corse, Rolla, 1884.....	10 15		
Arthur Corse, Rolla, 1885.....			
MISSOURI (WESTERN DISTRICT).			
A. C. Scott, Sedalia, 1884.....	44 40		
A. C. Scott, Sedalia, 1885.....	97 20		
John M. Stewart, Saint Joseph, 1884.....	26 50		
John M. Stewart, Saint Joseph, 1885.....			
C. H. E. Shutte, West Plains, 1884.....			
C. H. E. Shutte, West Plains, 1885.....	8 75		
L. D. Burns, Jefferson City, 1884.....	65 55		
L. D. Burns, Jefferson City, 1885.....	32 20		
Warren Watson, Kansas City, 1884.....			
Warren Watson, Kansas City, 1885.....	39 75		
MISSISSIPPI (NORTHERN DISTRICT).			
S. P. Seay, Iuka, 1884.....	6 65		
S. P. Seay, Iuka, 1885.....			
B. C. Simms, Aberdeen, 1884.....	5 00		
B. C. Simms, Aberdeen, 1885.....			
John H. Kimmons, Oxford, 1884.....	18 60		

Mr. COCKRELL. The most paid to any commissioner in Maine in 1885 was \$731.95 to E. M. Rand, of Portland. The most paid to any one commissioner in Vermont in 1885 was \$127.35, to G. E. Johnson, of Burlington. The most paid to any commissioner in Connecticut in 1885 was \$118.75, to E. E. Marvin, of Hartford. The most paid to any commissioner in Indiana in 1885 was \$210.95, to C. Martindale, of Indianapolis. In Pennsylvania the most that was paid to any commissioner in the eastern district in 1885 was \$882.75, to Samuel Bell, of Philadelphia, and in the western district the greatest amount in 1885 was \$177.35 to S. C. McCandless, of Pittsburgh. In the eastern district of Missouri the greatest amount paid in 1885 was to William Morgan of Saint Louis, \$442.30, and in the western district of Missouri—

Mr. HOAR. Has the Senator got the aggregate paid to all the commissioners in those different districts?

Mr. COCKRELL. I have not the aggregate, but I have the amount paid to each one and it will be printed. I am only calling attention to the highest ones.

Mr. HOAR. But you have the amount of all?

Mr. COCKRELL. Yes; and it will be printed with this. In the western district of Missouri the largest amount paid in 1885 was \$1,769.70, to McLain Jones, of Springfield, Mo. In Mississippi the largest amount paid to any commissioner in 1885 was \$21.80, to John H. Kimmons, of Oxford, and the largest amount paid in the southern district of Mississippi in 1885 was \$8.45, to Fred. Parsons, of Natchez.

In connection with that, I desire to read a letter I have just received from the First Comptroller in regard to certain affairs in Alabama:

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,  
Washington, D. C., July 24, 1886.

SIR: I desire to further call your attention to the matter in reference to United States commissioners.

An account of a United States marshal has been laid before me, in which witnesses have been paid who appeared before a United States commissioner at Mobile, Ala. I find that on January 29 this year two witnesses were summoned to appear before him, and they charged, one 324 and the other 320 miles. On February 1, three days thereafter, they both charged the same sum. On February 2 one charges 207 and the other 205 miles. On January 17 one of them charges 324 miles, and on January 18, 252 miles. They both claim from a town named Claiborne, which I suppose to be their residence. But what I desire to call your attention to particularly is that there are two United States commissioners living not very far from where both these men were summoned, and where the offense charged was committed. The United States commissioner at Mobile, as I wrote to either you or Mr. EDMUNDS, receives five or six thousand dollars a year for his fees; and you need not wonder at this when persons are called from the most distant portions of the State to appear before him, although other United States commissioners are living close by.

You will observe that it is not alone the large amount paid to commissioners which is involved, but there is an enormous expense for the traveling expenses of witnesses who have to go so far to appear before these commissioners. The mileage of the witnesses in the cases above mentioned amount to nearly \$20 apiece for each trip, whereas it would not have been half as much had they gone before a nearer commissioner. I simply give you this as an additional illustration of the excessive amounts paid by the Government, showing that the fees of these commissioners should be limited to \$800 or \$1,000. I am sure that you wish to be put into possession of all the facts possible in regard to this matter.

Very respectfully,

M. J. DURHAM.

HON. FRANCIS M. COCKRELL,  
United States Senate.

Mr. EDMUNDS. I wish to suggest to my friend from Missouri, whose general views about this matter I entirely concur in, that in respect of commissioners bringing the accused person and the witnesses a long distance, passing by other commissioners, to the injury of the public service, as it generally is, and to the worry and unnecessary discomfort of the person accused and everybody else, it may not be the fault of that particular commissioner. The commissioner under the law stands as a committing magistrate, on official information presented to him by the district attorney of the United States, who is the prosecuting attorney; and he has no authority to issue a warrant, so far as I know, upon any other ground than upon the application of the official authority; and if applied to, by the proper and formal information, by that district attorney he is bound by law to issue the warrant on that information for the arrest and bringing before him of the accused person.

Mr. COCKRELL. Just there let me ask does the law require that the accused shall be brought before the commissioner who issues the warrant rather than before the nearest commissioner to the place where the alleged criminal is arrested?

Mr. EDMUNDS. That was just the next subject I was going to call attention to. That raises a question I was about to state. If the commissioner has the discretion to issue a warrant commanding the marshal to arrest me and take me before some other commissioner, in that case the commissioner ought to issue his warrant ordinarily directing the marshal to take me before a commissioner nearest conveniently to

the place where I am supposed to be found. However, I confess that I do not know anything in the statutes of the United States which regulates this business, which authorizes one commissioner to issue a warrant for my arrest and direct the marshal not to bring me before him where the official information of the district attorney is filed, but before some other commissioner or magistrate; and I am very much afraid, if I were brought before some other commissioner or magistrate and were committed for trial that I should get out on a habeas corpus, and should be able to sue the marshal for a false imprisonment. I am very much afraid that that is the law. Whether it ought to be otherwise is another question.

But supposing it to be so, then if the district attorney of the United States does his business properly, when a complaint was made against him for counterfeiting, or distilling illicit whisky, or doing any other offense against the laws of the United States, he would cause the information to be filed before the commissioner most convenient to the place where the alleged culprit and the witnesses were, and then all this thing would be easily disposed of and without expense.

We have no difficulty of that kind in the region of country from which I come; nobody would think of carrying a man a great distance. I have reason to believe that in one of the States of this country where there is a good deal of this commissioner business from illicit whisky, and so on, where the judge of the court, who has the appointment and removal of the commissioners in his hands, has informed the commissioners that they must be extremely careful in respect of issuing these warrants, and must hold the district attorney, by reporting to the court, &c., up to a careful performance of his duties; and secondly, that the judge in that State has admonished the district attorney that his accounts will not be passed, and that he will be reported to the Department of Justice if he undertakes the business of carrying an accused man or the witness a long distance over the State to one commissioner rather than bring him before the nearest one, in order that the matter may be disposed of.

It is really a question of administration which between the President of the United States, the Attorney-General, and the judges of the courts can be perfectly well and economically and satisfactorily disposed of, except the question as to what the Supreme Court have decided about docket fees, which nobody in New England I suppose ever suspected would be a charge against the United States.

Mr. COCKRELL. I should like to ask the Senator from Vermont what power the President has in the matter?

Mr. EDMUNDS. The President has the power, as the general supervisor of the administration of the Government, in the first place, to select and nominate district attorneys who, by and with the advice and consent of the Senate, shall be appointed, who are so clearly fit for their places, so upright, so intelligent, so economical, and so just that they will see that every abuse of this kind continues no longer. The judges of the courts have the power to regulate it where abuses may occur, as I say has been done in one State, where it has been brought to the attention of a very just judge, and who is a Democrat, I am sorry to say; it is the only fault he has, so far as I know—

Mr. COCKRELL. A very commendable one.

Mr. EDMUNDS. That is not a bad one with him. He having had his attention called to this business, has, I believe, removed two or three commissioners who have been in that sort of business, apparently cuddling with somebody to multiply business and get more fees, &c., and has admonished the new Democratic district attorney, his brother in the faith, that that sort of thing must not go on in that way any longer. It is really a question of administration.

Mr. COCKRELL. The Attorney-General would have authority to issue instructions to district attorneys to prefer their complaints to the commissioner residing nearest the place of the offense?

Mr. EDMUNDS. Undoubtedly. It is a mere matter of administration.

Mr. HOAR. I think there ought to be some regulation of this matter by law to secure improved administration, but I do not think the proper remedy is that suggested in the passage inserted by the House which is proposed to be stricken out.

I wish to say to the Senator from Missouri that while I quite agree with him that there is call for new legislation, and also for more circumspect administration, I think that he will himself agree with me that this particular proposition of the House has much that is bad in it as well as much that is good.

Mr. COCKRELL. Yes, I know that.

Mr. HOAR. In the first place, in populous cities like Boston and New York it is desirable to have this important duty done by an experienced man rather than divided among a hundred men, who will all be of less experience. Take the case of Mr. Hallett, whose name has been mentioned here, I think; at any rate it has been mentioned in connection with this matter. He is a gentleman of great education and experience. He is the son of Mr. Benjamin F. Hallett, who is the grandfather of all the Democrats in our part of the country.

If you provide that no commissioner shall get more than \$800 a year you have got this difficulty among others. Suppose there are ten cases and they go to one commissioner. He disposes of them all in a day. He can charge but one day's service for that work, whereas if they are

divided among ten men, as they would be if nobody could get more than \$800 a year, each of them will get a day for what one commissioner would do perhaps in half an hour or an hour in the morning. So it is quite obvious that the House enactment is not the road out of the difficulty.

It seems to me you might very properly have a limit put to the amount that the commissioner shall receive, enough to make a reasonable compensation, and then make some enactment which will cover the difficulty suggested by the Senator from Missouri, which is a very great one.

Mr. COCKRELL. There is force in what the Senator from Massachusetts says. If the portion recommended to be stricken out by the Senate committee were to be retained it would be proper, in my judgment, to exempt cities of a certain population; but as the committee have recommended striking out that clause I shall leave it just where it is. I wanted to get these facts before the country, because I believe, as the Senator from Vermont has said, that the judges and the district attorneys and the Attorney-General can correct most of these abuses.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, in the appropriations for "Territorial courts in Utah," in section 1, after line 1443, to insert:

To enable the Attorney-General to pay a reasonable compensation to the assistants of the United States attorney in the Territory of Utah for services rendered in prosecuting offenses in that Territory (namely, Edward Critchlow, V. Bierbower, Charles W. Zane, and C. S. Varian), \$2,300, or so much thereof as shall be necessary.

The amendment was agreed to.

The next amendment was, in section 1, after line 1450, to insert:

To reimburse W. H. Dickson, United States attorney, Territory of Utah, the sum paid by him as a reward for the apprehension of George Q. Cannon, \$2,500.

The amendment was agreed to.

The next amendment was, in section 1, after line 1464, to insert:

To pay Edwin B. Smith for legal services rendered the Government in the case of the United States vs. Charles J. Guiteau, \$2,000.

The amendment was agreed to.

The Chief Clerk continued the reading of the bill, as follows:

Judgments Court of Claims:

For payment of the judgments of the Court of Claims, as follows—

The PRESIDENT *pro tempore*. The Chair asks the Senator from Maine whether he desires to have all the judgments of the Court of Claims read in the succeeding pages?

Mr. HALE. I wish to ask that the reading of the text from line 1471, on page 60, to line 2250, on page 92, may be passed over. They are simply lists of judgments and amounts, and I ask that the reading be dispensed with. There are several little amendments in that part of the bill which we can go back to afterward.

The PRESIDENT *pro tempore*. If there be no objection the reading will be dispensed with.

Mr. INGALLS. Have these items all been carefully examined by the committee?

Mr. HALE. They have been carefully examined by the committee, and also with the documents before us.

The PRESIDENT *pro tempore*. The verbal amendments referred to by the Senator from Maine in the part passed over will be stated in their order at this time.

Mr. HALE. Very well.

The next amendment of the Committee on Appropriations was, in the appropriations "for payment of the judgments of the Court of Claims," in section 1, line 1512, after the word "Company," to insert "limited;" so as to read:

Curtis & Brown Manufacturing Company, limited, \$46.50.

The amendment was agreed to.

The next amendment was, in section 1, line 1606, to strike out the name "Pardue" and insert "Perdue;" so as to read:

A. J. Perdue, \$1,524.

The amendment was agreed to.

The next amendment was, in section 1, line 1623, to strike out "Cardoza" and insert "Cardozo;" so as to read:

Isaac N. Cardozo, \$930.

The amendment was agreed to.

The next amendment was, in section 1, line 1660, to strike out the name "Groyne" and insert "Gwynnie;" so as to read:

Gwynne and Day, \$678.64.

The amendment was agreed to.

The next amendment was, in section 1, line 1753, to change the name "Dornett" to "Domett;" so as to read:

Domett and Nichols, \$1,049.89.

The amendment was agreed to.

The next amendment was, in section 1, line 1772, to change the name "Hemingway" to "Heminway;" so as to read:

A. G. Heminway & Co., \$113.78.

The amendment was agreed to.

The next amendment was, in section 1, line 1918, before the word

"cents," to strike out "ninety-eight" and insert "eight;" so as to read:

Worthy S. Streater, \$561.08.

The amendment was agreed to.

The next amendment was, in section 1, line 1954, to change the name "Girard" to "Giraud;" so as to read:

F. W. Giraud, \$139.

The amendment was agreed to.

The next amendment was, in section 1, line 1968, to change the name "Dullard" to "Dillard;" so as to read:

Alfred T. Dillard, \$407.

The amendment was agreed to.

The next amendment was, in section 1, line 1986, to change the name "John G. Allen" to "John J. Allen;" so as to read:

John J. Allen, \$6,962.

The amendment was agreed to.

The next amendment was, in section 1, line 2039, to change the name "G. A. Scroggs" to "Gustavus A. Scroggs;" so as to read:

Gustavus A. Scroggs, \$282.

The amendment was agreed to.

The next amendment was, in section 1, after the word "cents," at the end of line 2045, to insert:

John I. Brown & Sons, \$445; John Bond, \$72.27.

The amendment was agreed to.

The next amendment was, in section 1, line 2048, to increase the total amount of the appropriations "for payment of the judgments of the Court of Claims" from \$83,228.12 to \$683,744.49.

The amendment was agreed to.

The next amendment was, in section 1, to strike out the following clause from line 2060 to line 2070, inclusive:

To pay Albert Grant for interest, at 5 per cent. per annum, on judgment of Court of Claims for \$14,016.29, from January 17, 1870, the date the original transcript was filed with the Secretary of the Treasury, until paid, a sufficient sum to pay the same, the principal of the judgment having been appropriated by the act making appropriations to supply deficiencies in the appropriations for 1884, and for other purposes, approved July 7, 1884.

Mr. FRYE. I hope that my colleague in charge of the bill will consent that the Senate may disagree to that amendment. I have known about this case ever since I entered Congress, and have been entirely familiar with it, having made myself two reports in relation to it, and my judgment is that Mr. Grant is entitled to this interest beyond any manner of question.

On a bill which I reported he was given leave to go the Court of Claims. He went to the court and recovered a judgment for \$34,000; I do not give the odd figures. There was a clear, palatable error made by the court of fourteen thousand and some odd dollars. He might have entered an appeal, but the United States itself entered an appeal. The appeal was withdrawn by the United States after the adjournment of that term of court. Thus Mr. Grant was left without any opportunity for review or appeal.

He then applied again to Congress and finally on a report made by me as a member of the Senate Committee on Claims he was authorized to go to the Court of Claims. Here I have the act of the 5th of January, 1883, by which he was thus authorized, and after giving him the authority to go the act itself says "that the judgment recovered shall be a part of the original judgment in the case recorded in the fifth Court of Claims Reports, page 80." The court investigated the case and determined that it did make a mistake of over \$14,000, and accordingly entered up judgment as a part of the old judgment of some six or eight years prior.

The United States only offered to pay the \$14,000 which had been made a part of that judgment, but the United States had paid 5 per cent. interest on the former judgment, and here the delay was entirely the fault of the United States and not of Mr. Grant.

I understand that the Senate Committee on Appropriations had an idea that he had slept on this claim, but on reference to the RECORD I find that in the Forty-second Congress I made a report on it, in the Forty-third Congress, Mr. BURROWS, in the Forty-fourth, Mr. FRYE, in the Forty-fifth, Mr. Ellsworth, in the Forty-sixth, Mr. Lindsey, in the Forty-seventh Ossian Ray, so that in every Congress there has been a favorable report made on this item.

The House committee in the last Congress inserted this item for Mr. Grant. It was stricken out on a point of order in the Senate, and therefore did not become a law. After full and careful consideration at this session of Congress the House Committee on Appropriations unanimously reported it, and it was inserted unanimously in the bill by the House without any division, and as I understand was stricken out by the Senate Committee on Appropriations upon the ground that Mr. Grant had been negligent himself. I have shown already that there has been no laches on his part. He is clearly under the law entitled to this sum.

The only reason why the United States declines to pay interest is because it is assumed that the United States is ready to pay its debts. That can not be assumed in this case, because it is a part of a judgment recovered away back in 1879, made a part of it by a law of Congress, and

made a part of it by the court itself which gave the former judgment, and it was not the fault of Mr. Grant at all, but the fault of the United States in entering an appeal and afterward withdrawing it.

Mr. Grant is now an old man, stricken with paralysis, probably will not live long; it is a matter of almost life and death with him as he is situated; and I hope that under these circumstances my colleague will assent that the Senate may disagree to this amendment.

Mr. GEORGE. I desire to ask the Senator from Maine at what rate the interest is calculated.

Mr. FRYE. At 5 per cent.; the same as the interest on the other judgment.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the Committee on Appropriations.

The amendment was rejected.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in section 1, after line 2250, to insert:

To enable the Secretary of War to pay to J. Volney Swetting, \$1,173.25; to J. C. Burdick, \$1,440.95; to John C. Thompson, \$882.60; to George H. Buckstaff, \$332.60; to E. M. Wadsworth, \$255.15; and to George H. Read, \$357.30, commissioners appointed under the authority of an act of Congress approved March 3, 1875, entitled "An act to aid in the improvement of the Fox and Wisconsin Rivers, in the State of Wisconsin," for services in ascertaining and awarding the amount of damages by reason of the flowage of lands caused by the improvement of the Fox and Wisconsin Rivers, in the State of Wisconsin; in all, \$4,441.85.

The amendment was agreed to.

The next amendment was, under the head of "Senate," in section 1, after line 2276, to insert:

To enable the Secretary of the Senate to pay to Mary C. Miller, widow of Hon. John F. Miller, late a Senator from the State of California, deceased, the amount of compensation as a Senator from March 9, 1886, to March 3, 1887, inclusive, \$4,931.50.

The amendment was agreed to.

The next amendment was, in section 1, after line 2283, to insert:

For folding documents, \$2,500.

The amendment was agreed to.

The next amendment was, in section 1, after line 2285, to insert:

For furniture and repairs of furniture, \$1,800.

The amendment was agreed to.

The next amendment was, in section 1, after line 2287, to insert:

For horses and wagons, \$1,253.35.

The amendment was agreed to.

The next amendment was, in section 1, after line 2289, to insert:

For horses and wagons, fiscal year 1885, \$11.50.

The amendment was agreed to.

The next amendment was, in section 1, after line 2291, to insert:

For fuel for heating apparatus, fiscal year 1885, \$20.77.

The amendment was agreed to.

The next amendment was, in section 1, after line 2294, to insert:

For miscellaneous items, \$17,000.

The amendment was agreed to.

The next amendment was, in section 1, after line 2295, to insert:

To pay W. P. Canaday, Sergeant-at-Arms of the United States Senate, for hire of horse and wagon for his use from December 19, 1883, to June 30, 1885, inclusive, at \$600 per annum, \$921.20.

The amendment was agreed to.

The next amendment was, in section 1, after line 2301, to insert:

To enable the Secretary of the Senate to pay to the following persons, namely: J. C. Witel, M. Rea, J. T. Johnson, P. P. Finigan, S. C. Wallis, Jed. Gittings, W. J. Johnson, V. B. Sharpe, E. T. Bynum, N. J. Coffin, Alex. Green, J. E. Clifford, C. F. Holbrook, R. L. Cooper, G. W. Price, J. H. Davis, J. W. Pettit, J. H. Houston, Asa Gardner, and J. W. Hayward, the sum of \$9 each, being the amount due them for services rendered as special policemen on the 3d, 4th, and 5th days of March, 1885; in all, \$180.

Mr. FRYE. I ask my colleague to consent, in line 2308, after the name of "Asa Gardner," to insert the name of "Asa P. Barker." He was employed on the special police for three days, and the Sergeant-at-Arms tells me in rendering the statement to the committee he accidentally omitted that name.

Mr. HALE. I knew that one name was omitted, and if my colleague knows that that was the name I consent to the insertion.

Mr. FRYE. I know that to be the name which was omitted.

The PRESIDENT *pro tempore*. The amendment to the amendment will be stated.

The CHIEF CLERK. In line 2308 it is proposed to insert the name of "Asa P. Barker;" and in line 2311, after the words "in all" to strike out "\$180" and insert "\$189."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in section 1, after line 2314, to insert:

To enable the Secretary of the Senate to pay Christopher Phillips for services rendered by him to the Senate, under employment of the Sergeant-at-Arms, from November 10 to December 1, 1884, in pursuance of the resolution of the Senate of March 3, 1885, \$41.

The amendment was agreed to.

The next amendment was, in section 1, after line 2319, to insert:

To enable the Secretary of the Senate to pay Beverly Hudnell for services as laborer in the Senate from the 15th day of May to the 31st of July, 1884, \$145.

The amendment was agreed to.

The next amendment was, in section 1, after line 2324, to insert:

That the Secretary of the Senate be, and he is hereby, authorized and directed to pay William M. Olin as clerk to the Committee on Indian Affairs from the 15th day of December, 1885, to the 21st day of January, 1886, out of the appropriation for salaries of officers, clerks, messengers, and others, Senate, for the fiscal year ending June 30, 1886.

The amendment was agreed to.

The next amendment was, in section 1, after line 2322, to insert:

To enable the Secretary of the Senate to pay for clerical and stenographic services and other expenses of the Joint Commission to Consider the Organizations of the Signal Service, Geological Survey, Coast and Geodetic Survey, and the Hydrographic Office of the Navy Department, \$1,828; the accounts for said services and expenses to be paid on vouchers audited and approved by the chairman of said joint commission, and to the persons who have rendered the services, notwithstanding section 1765 of the Revised Statutes, or section 3 of the act of June 20, 1874, chapter 328.

The amendment was agreed to.

The next amendment was, under the head of "House of Representatives," in section 1, after line 2414, to insert:

To pay to the widow of the late Hon. William H. Cole the amount of salary and allowance for stationery for the unexpired term of his service as a member of the Forty-ninth Congress, \$3,458.

The amendment was agreed to.

The next amendment was, in section 1, line 2420, after the name "Urban," to strike out "and;" after the name "Antz," at the end of the line, to insert "and Julia Schuetze;" in line 2421, to strike out the word "dependent" before the word "sisters;" and after the word "sisters" to insert "and only heirs;" so as to make the clause read:

To pay to Caroline Urban and Christine Antz and Julia Schuetze, sisters and only heirs of the late Hon. Michael Hahn, the amount of salary for the unexpired term of his service as a member of the Forty-ninth Congress, \$4,974.41, to be paid in equal parts to said dependent sisters.

The PRESIDENT *pro tempore*. In line 2426 the word "dependent" should also be stricken out, as the word is stricken out in line 2421.

Mr. HALE. Yes, that is right.

The PRESIDENT *pro tempore*. The amendment will be so amended.

The amendment as amended was agreed to.

The next amendment of the Committee on Appropriations was, in section 1, after line 2480, to insert:

To enable the Clerk of the House of Representatives to pay A. Vangender \$300, for extra compensation as assistant clerk to the Committee on Invalid Pensions during the present session of Congress.

Mr. HALE. The name should be changed in that item. It is "Vangender."

The PRESIDENT *pro tempore*. That correction will be made. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

Mr. VOORHEES. I should like to ask the Senator from Maine whether amendments are in order now or whether the bill is being read under the usual custom, waiting until the bill is read through?

Mr. HALE. Amendments will be in order after we get through with the committee amendments.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in section 2, under the head of "claims allowed by the First Comptroller," in line 35, after the date "1883," to strike out the words "except the claims numbered forty-six thousand and fifty, forty-seven thousand three hundred and eighty-one, and forty-seven thousand four hundred and thirteen contained in said Executive Document number seventy, seventeen thousand one hundred and ninety-seven dollars and thirteen cents," and in lieu thereof to insert "thirty-nine thousand and twenty dollars and twenty-eight cents;" so as to make the clause read:

For refunding taxes illegally collected, prior to July 1, 1883, \$39,020.28.

The amendment was agreed to.

The next amendment was, in section 2, to strike out the clause from line 168 to line 171, inclusive, as follows:

To pay fees of jurors and witnesses, United States courts, 1885 and prior years, when said claims are in the hands of said jurors and witnesses, \$10,000.

The amendment was agreed to.

The next amendment was, in section 2, under the head of "claims allowed by the Third Auditor and Second Comptroller," in line 496, after the word "years," to strike out "except the claim numbered 34-652 in said Executive Document No. 70, \$6,358.84" and insert "\$9,278.84;" so as to make the clause read:

For regular supplies Quartermaster's Department, 1883 and prior years, \$9,278.84.

The amendment was agreed to.

The next amendment was, in section 2, line 506, after the word "years," to strike out "except the claims numbered 80737, 79968, 54216, and 80966, \$13,413.29" and insert "\$39,367.35;" so as to make the clause read:

For transportation of the Army and its supplies, 1883 and prior years, \$39,367.35.

The amendment was agreed to.

The next amendment was, in section 2, under the head of "Claims allowed by the Sixth Auditor," in line 619, after the word "eighty-

nine," to insert the word "and;" in line 620, to strike out the words "sixty-eight hundred, and sixty-eight hundred and two;" in line 621, after the word "seventy," to strike out the words "four thousand eight hundred and sixty-three dollars and thirteen cents," and to insert the words "twenty-four thousand three hundred and forty dollars and ninety three cents;" so as to make the clause read.

Post-Office Department:

For deficiency in postal revenues, 1883 and prior years, except the claims numbered 6788, 6789, and 6799, contained in said Executive Document No. 70, \$24,340.93.

The amendment was agreed to.

The next amendment was, in section 3, under the head of "Claims allowed by the First Comptroller," in line 34, after the date "1883," to strike out the words "except the claims numbered forty-eight thousand one hundred and ninety-one, forty-eight thousand two hundred and eighty-one, and forty-eight thousand two hundred and eighty-two, contained in said Executive Document number seventy, two thousand nine hundred and ninety-six dollars and eighty-four cents," and insert "\$10,735.53;" so as to make the clause read:

For refunding taxes illegally collected, prior to July 1, 1883, \$10,735.53.

The amendment was agreed to.

The next amendment was, under the head of "Claims allowed by the Second Comptroller," in section 4, line 41, after the words "Executive Document number two hundred and ten," to strike out "except the claims numbered 4377 and 1308 enumerated therein, \$59,405.81," and insert "\$107,994.29;" so as to make the clause read:

For the payment of the claims on account of transportation of the Army and its supplies certified as due by the Second Comptroller in Schedule A, pages 21 and 22, of said Executive Document No. 210, \$107,994.29.

The amendment was agreed to.

The next amendment was, in section 4, after line 51, to insert:

For the payment of the claim on account of barracks and quarters, certified as due by the Second Comptroller in Schedule A, page 22, of said Executive Document No. 210, \$18,430.56.

The amendment was agreed to.

The next amendment was to insert as a new section the following:

SEC. 6. That for the payment of the following supplemental list of claims, which are fully set forth in Senate Executive Document No. 213, first session, Forty-ninth Congress, there is appropriated as follows:

CLAIMS ALLOWED BY THE THIRD AUDITOR AND SECOND COMPTROLLER.

War Department:

For horses and other property lost in the military service prior to July 1, 1883, \$14,343.26.

Compensation of postmasters readjusted under act of March 3, 1883:

For compensation of postmasters readjusted because of the act of March 3, 1883, and to pay the several amounts reported by the Auditor of the Treasury for the Post-Office Department as due and unpaid, payable from deficiency in the postal revenue for 1883 and prior years, \$380,209.46: *Provided*, That the method of reviewing and readjusting the salaries of postmasters and late postmasters of the third, fourth, and fifth classes, under the classification of the act of July 1, 1864, during the period between July 1, 1864, and July 1, 1874, which has been practiced in the Post-Office Department under and since the act of March 3, 1883, entitled "An act authorizing and directing the Postmaster-General to readjust the salaries of certain postmasters in accordance with the provision of section 8 of the act of June 12, 1866," by which all such reviews and readjustments have been made prospectively for the biennial periods provided for in the said act of July 1, 1864, upon the basis of the quarterly returns of postmasters during the preceding biennial periods, respectively, whenever the salary actually paid was 10 per cent. less in amount than such salary should have been if adjusted correctly upon such returns by computing what the commissions upon the same would have been under the act of June 22, 1854, and averaging the amount thereof annually, as directed by the act of July 1, 1864, for fixing salaries, is approved and ratified as a correct administration of the aforesaid act of March 3, 1883, and of all other acts applicable thereto; and that the several readjustments which have been made are ratified as a correct disposition of the several claims which have been considered and disposed of, and for which this appropriation is made; and the several persons to whom amounts have been respectively found due are declared the rightful persons entitled to the same, and such amounts to be the full sums due upon any and all such claims; and that all claims in excess thereof, and all other claims for readjustment which have been examined and found by the proper officers of the Post-Office Department not entitled to readjustment within such rule of administration, are disallowed and barred. That no claim for review or readjustment of any such salary shall be hereafter considered unless the same shall be presented to the Post-Office Department before the 1st day of January, 1887; and in considering all claims not yet readjusted the same method shall be pursued which is hereby approved; and any and every different method of readjustment of salaries of such postmasters and late postmasters during the period between July 1, 1864, and July 1, 1874, than is herein approved, is hereby prohibited; and no action or suit shall be maintainable in any court against any officer of the United States by reason of his action in reviewing or refusing to review, or allowing or disallowing, any application for readjustment of any such salary: *And provided further*, That payment of all sums hereby appropriated shall be made by warrants or checks, as provided by the said act of March 3, 1883, payable to the order of and transmitted to the persons entitled respectively thereto.

The amendment was agreed to.

Mr. HALE. I have certain amendments to offer from the Committee on Appropriations, which I will now take up in order. In section 1, line 220, after the word "eighteen hundred and eighty-three," the amount of the appropriation should be put in "\$600, or so much thereof as may be necessary," so as to read:

To reimburse C. C. Andrews, late United States consul-general at Rio de Janeiro, amount expended by him for clerk-hire in excess of the amount allowed by law during the year ending September 1, 1883, \$600, or so much thereof as may be necessary.

The amendment was agreed to.

Mr. HALE. In section 1, line 382, after the word "cases," the rest of the clause should be stricken out and the amount appropriated, "\$248,574.59," inserted.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The Chair informs the Senator that that paragraph has been stricken out.

Mr. HALE. Then I ask that the vote be reconsidered.

The PRESIDING OFFICER. If there be no objection the vote by which the paragraph was stricken out will be reconsidered. The Chair hears no objection, and it is so ordered.

Mr. HALE. Now instead of reappropriating it should appropriate the sum of \$248,574.59, and I move to insert that after the word "cases," and then to strike out the rest of the paragraph, making a direct appropriation instead of a reappropriation, as we have done all through the bill.

The PRESIDING OFFICER. The paragraph will be read as now proposed by the Senator from Maine.

The Chief Clerk read as follows:

For repayment to importers the excess of deposits for unascertained duties, or duties or other moneys paid under protest, including interest and costs in judgment cases, \$248,574.59.

Mr. PLUMB. I wish the Senator would explain that appropriation and the necessity for it, and tell us why the committee came to its present conclusion on the subject.

Mr. HALE. The Secretary of the Treasury has written a letter stating the amount which would be needed to cover costs and receipts in these suits which have been brought where imposts have been exacted and are paid back upon judgments. The amounts of the judgments are paid out of the general fund, a permanent appropriation, and the Secretary now writes that this exact amount, \$248,574.59, will be needed to cover cases for the last two or three years.

The PRESIDING OFFICER. If there be no objection the amendment proposed by the Senator from Maine is agreed to, and the remainder of the paragraph is stricken out. The Chair hears no objection, and that amendment is made.

Mr. HALE. In section 1, after line 379, I move to insert:

To pay the amount found due Chester A. Arthur, late collector of customs for the district of New York, on account of expenses of collecting the revenue from customs, fiscal year 1879, \$972.29.

The amendment was agreed to.

Mr. HALE. In section 1 I move to strike out the two clauses from line 433 to line 443, inclusive.

The PRESIDING OFFICER. Does the Senator from Maine propose to reconsider the vote by which those clauses were inserted?

Mr. HALE. I do.

Mr. FRYE. What for?

Mr. HALE. The superintendent has telegraphed that they are not necessary.

Mr. FRYE. That is a good reason.

The PRESIDING OFFICER. The paragraph will be read.

The Chief Clerk read as follows:

For the maintenance of the United States carp-ponds in Washington and elsewhere, and the distribution of the young fish, including salaries or compensation of all necessary employes, being a deficiency for the fiscal year 1884, \$226.03.

For the maintenance of the vessels of the United States Fish Commission, including salaries or compensation of all necessary employes, being a deficiency for the fiscal year 1884, \$178.78.

The PRESIDING OFFICER. If there be no objection the vote by which these two amendments were agreed to will be reconsidered and the amendments will be disagreed to. The Chair hears no objection, and it is so ordered.

Mr. HALE. In section 1, the clause included in line 1230 down to and including line 1245 should be agreed to. The vote disagreeing to that paragraph should be reconsidered.

The PRESIDING OFFICER. The words which have been stricken out will be read.

The Chief Clerk read as follows:

For this amount to be paid to the Pottawatomie Indians, or expended for their benefit under the direction of the Secretary of the Interior, being the difference between the amount paid to said Indians in currency in the years 1863, 1864, 1865, 1866, and 1867, and the sum due in coin, under their treaties of 1818 and 1829, as required to be ascertained by article 9 of their treaty of August 7, 1868, \$49,382.08; but this provision shall not be held as precedent hereafter for the regulation or decision of any controversy between the Government of the United States and any parties whatsoever.

The PRESIDING OFFICER. If there be no objection the vote by which the amendment was agreed to as in Committee of the Whole will be reconsidered. The Chair hears no objection. The question recurs, Will the Senate agree to the amendment striking out the paragraph?

The amendment was rejected.

Mr. HALE. On page 53, in section 1, after line 1279, I move to insert:

For preservation of collection 1883 and prior years, \$149.16.

The amendment was agreed to.

Mr. HALE. On page 57, in section 1, line 1388, after the date "1884," I move to insert "two thousand," so as to read:

Fees of district attorneys: For payment of district attorneys and their assistants, being a deficiency for the fiscal year 1884, \$2,195.09.

The amendment was agreed to.

Mr. HALE. On page 60, in section 1, lines 1465, 1466, and 1467 should be struck out. That provision is in another part of the bill.

The PRESIDING OFFICER. The clause proposed to be stricken out will be read.

The CHIEF CLERK. It is proposed to strike out from line 1465 to line 1467, inclusive, as follows:

To pay Edwin B. Smith for legal services rendered the Government in the case of the United States vs. Charles J. Guiteau, \$2,000.

The PRESIDING OFFICER. This was reported as an amendment by the Committee on Appropriations and agreed to by the Senate. The Senator from Maine moves that the vote by which this amendment was agreed to be reconsidered and the amendment disagreed to.

Mr. COCKRELL. Why should that be done?

Mr. HALE. It is in one of the schedules.

The PRESIDING OFFICER. If there be no objection the vote by which this amendment was adopted will be reconsidered and the amendment will be regarded as disagreed to. The Chair hears no objection.

Mr. HALE. On page 95, after line 2345 of section 1, I move to insert:

For expense of draping the Capitol building on the occasion of the death of ex-President Grant, \$624.25, one-half to be paid by the Secretary of the Senate and one-half by the House of Representatives.

The amendment was agreed to.

The PRESIDING OFFICER. The Chief Clerk suggests that the last amendment should be modified so as to read:

One-half by the Clerk of the House of Representatives.

Mr. HALE. That is right.

The PRESIDING OFFICER. The amendment will be so modified if there be no objection.

Mr. HALE. On page 149, after line 202 of section 5, I move to insert the following and I file to be printed in the RECORD the estimate of the Department:

Pay on account of mail transportation over non-subsidized railroads operated, leased, or controlled by the Central Pacific Railroad Company, being a deficiency for the first three quarters of the present year ending June 30, 1886, and for prior years, as estimated for by the Secretary of the Treasury, in Executive Document No. 280, first session Forty-ninth Congress, or so much thereof as may be necessary, \$626,714.57.

The amendment was agreed to.

The PRESIDING OFFICER. The document referred to will be printed in the RECORD if there be no objection.

The document is as follows:

TREASURY DEPARTMENT, June 19, 1886.

SIR: I have the honor to transmit herewith, for the consideration of Congress, estimates of appropriations submitted by the Postmaster-General on account of mail transportation over non-subsidized railroads operated, leased, or controlled by the Central Pacific Railroad Company, amounting to \$626,714.57.

Respectfully, yours,

C. S. FAIRCHILD, Acting Secretary.

The SPEAKER of the House of Representatives.

POST-OFFICE DEPARTMENT,  
OFFICE OF THE POSTMASTER-GENERAL,  
Washington, D. C., June 18, 1886.

SIR: I submit herewith for transmission to Congress additional deficiency estimates of appropriations required for the service for the first three-quarters of the fiscal year ending June 30, 1886, and for prior years, on account of mail transportation over non-subsidized railroads operated, leased, or controlled by the Central Pacific Railroad Company.

Very respectfully, your obedient servant,

WM. F. VILAS, Postmaster-General.

The SECRETARY OF THE TREASURY.

Estimates of appropriations required for the service of the fiscal year ending June 30, 1886, and prior years, by the Postmaster-General, out of the postal revenue.

Detailed objects of expenditure, and explanations.	Estimated amount which will be required for each detailed object of expenditure.
<i>Year ending June 30, 1886.—Inland mail transportation—Railroad.</i>	
On account of mail transportation over non-subsidized railroads operated, leased, or controlled by the Central Pacific Railroad Company. (March 3, 1879; Revised Statutes, sections 3964, 4002, 5260; 20 Statutes at Large, page 420, section 1).	
Central Pacific Railroad, California.....	\$58,100 43
Central Pacific Railroad Company, lessee of the Southern Pacific Railroad Company of New Mexico.....	2,821 23
Central Pacific Railroad Company, lessee of the Berkeley Branch Railroad, California.....	185 31
Central Pacific Railroad Company, lessee of the Northern Railway..	5,204 38
Central Pacific Railroad Company, lessee of the Southern Pacific Railroad of Arizona.....	47,853 29
Central Pacific Railroad Company, lessee of the San Pablo Railroad, California.....	5,640 48
Central Pacific Railroad Company, lessee of the Los Angeles and San Diego Railroad, California.....	2,025 09
Amador Branch Railway Company, California.....	1,372 26
Stockton and Copperopolis Railroad Company, California.....	2,195 55
California Pacific Railroad Company, California.....	3,103 61
Los Angeles and Independence Railroad Company.....	621 21
Southern Pacific Railroad Company, California.....	40,971 86
Total, 1886, to March 31, 1886.....	170,094 76

Estimates of appropriations required for the service, &c.—Continued.

Detailed objects of expenditure, and explanations.	Estimated amount which will be required for each detailed object of expenditure.
<i>Inland mail transportation—Railway post-office car service.</i>	
On account of mail transportation over non-subsidized railroads operated, leased, or controlled by the Central Pacific Railroad Company. (Same acts.)	
Central Pacific Railroad Company, California.....	9,620 61
Central Pacific Railroad Company, lessee of the San Pablo Railroad, California.....	958 89
Southern Pacific Railroad Company, California.....	4,409 14
Total, 1886, to March 31, 1886.....	14,988 64
<i>Year ending June 30, 1885.—Inland mail transportation—Railroad.</i>	
On account of mail transportation over non-subsidized railroads operated, leased, or controlled by the Central Pacific Railroad Company. (March 3, 1879; same acts.)	
Central Pacific Railroad Company, California.....	77,456 32
Central Pacific Railroad Company, lessee of the Southern Pacific Railroad of New Mexico.....	3,782 38
Central Pacific Railroad Company, lessee of the Berkley Branch Railroad, California.....	247 08
Central Pacific Railroad Company, lessee of the Northern Railway, California.....	6,965 67
Central Pacific Railroad Company, lessee of the Southern Pacific Railroad of Arizona.....	64,113 84
Central Pacific Railroad Company, lessee of the San Pablo Railroad, California.....	7,520 64
Central Pacific Railroad Company, lessee of the Los Angeles and San Diego Railroad, California.....	2,861 72
Amador Branch Railway Company, California.....	1,829 68
Stockton and Copperopolis Railroad Company, California.....	2,927 40
California Pacific Railroad Company, California.....	4,152 72
Los Angeles and Independence Railroad Company.....	833 60
Southern Pacific Railroad Company, California.....	54,992 91
Total, 1885.....	227,683 96
<i>Inland mail transportation—Railway post-office car service.</i>	
On account of mail transportation over non-subsidized railroads operated, leased, or controlled by Central Pacific Railroad Company. (Same acts.)	
Central Pacific Railroad Company, California.....	12,827 48
Central Pacific Railroad Company, lessee of the San Pablo Railroad, California.....	1,278 52
Southern Pacific Railroad Company, California.....	6,040 48
Total, 1885.....	20,146 48
<i>Year ending June 30, 1884.—Inland mail transportation—Railroad.</i>	
On account of mail transportation over non-subsidized railroads operated, leased, or controlled by the Central Pacific Railroad Company. (March 3, 1879; same acts.)	
Central Pacific Railroad Company, California.....	\$61,829 81
Central Pacific Railroad Company, lessee of the Southern Pacific Railroad of New Mexico.....	2,818 62
Central Pacific Railroad Company, lessee of the Berkley Branch Railroad, California.....	185 31
Central Pacific Railroad Company, lessee of the Northern Railway, California.....	5,227 83
Central Pacific Railroad Company, lessee of the Southern Pacific Railroad Company of Arizona.....	46,000 00
Central Pacific Railroad Company, lessee of the San Pablo Railroad, California.....	5,619 89
Central Pacific Railroad Company, lessee of the Los Angeles and San Diego Railroad, California.....	1,864 98
Amador Branch Railway Company, California.....	1,372 26
Stockton and Copperopolis Railroad Company, California.....	2,195 55
California Pacific Railroad Company, California.....	3,114 54
Los Angeles and Independence Railroad Company.....	622 35
Southern Pacific Railroad Company, California.....	47,779 73
Total, 1884.....	178,690 87
<i>Inland mail transportation—Railway post-office car service.</i>	
On account of mail transportation over non-subsidized railroads operated, leased, or controlled by the Central Pacific Railroad Company. (Same acts.)	
Central Pacific Railroad Company, California.....	9,620 61
Central Pacific Railroad Company, lessee of the San Pablo Railroad, California.....	958 89
Southern Pacific Railroad Company, California.....	4,530 26
Total, 1884.....	15,109 86

WASHINGTON, July 21, 1886.

I have examined and compared the above statement of accounts pertaining to the Post-Office Department, and they agree with the books of this office.  
D. McCONVILLE, Auditor.

Mr. HALE. The Committee on the Judiciary, through the chairman, submitted the following amendment; and, as he is not here, I offer it for him, it having been regularly examined by the Committee on Appropriations and approved by them. On page 52, after line 1265 of section 1, insert:

To enable the Secretary of the Interior to pay H. L. Warren and N. C. Collier,

attorneys at law, for services, under appointment of the court, in defending Nan-nock-qui, a Zuni Indian, charged with murder, at the May term, 1886, of the district court of the second judicial district of New Mexico, \$200.

The amendment was agreed to.  
Mr. HALE. I believe I am through. The Senator from Missouri [Mr. COCKRELL] has an amendment to offer from the committee.

Several Senators addressed the Chair.  
The PRESIDING OFFICER. The Chair will recognize the Senator from Missouri.

Mr. COCKRELL. To come in on page 150, I offer an amendment, covering a list of claims audited and allowed by the accounting officers of the Treasury to the soldiers of the late war for back pay, bounty, &c.; let it be a new section.

The Chief Clerk read the amendment, as follows:

SEC. 7. That for the payment of the following supplemental list of claims transmitted to the Senate by the acting Secretary of the Treasury, July 26, 1886, in response to Senate resolution of July 23, 1886, being Senate Executive Document No. 218, there is appropriated as follows:

CLAIMS ALLOWED BY THE SECOND AUDITOR AND SECOND COMPTROLLER.

War Department:  
For pay of two and three year volunteers, 1871 and prior years, \$52,628.61.  
For bounty to volunteers and their widows and legal heirs, 1871 and prior years, \$38,204.69.  
For bounty under act of July 28, 1866, 1880 and prior years, \$8,846.50.  
For pay, &c., of the Army, 1883 and prior years, \$1,952.60.  
For pay of volunteers (Mexican war), 1871 and prior years, \$2.64.  
For support of four companies of volunteers mustered at Camp Scott, Utah (act of June 12, 1858), \$6.92.  
For traveling expenses of First Michigan Cavalry prior to July 1, 1883 (act of July 28, 1866), \$203.07.  
For medical and hospital department, 1883 and prior years, \$36.80.

Interior Department:  
For pay of Indian agents, 1883 and prior years, \$262.15.  
For support of Klamaths and Modocs, 1883 and prior years, \$281.97.  
For traveling expenses of Indian inspectors, 1885, \$60.53.

CLAIMS ALLOWED BY THE FOURTH AUDITOR AND SECOND COMPTROLLER.

Navy Department:  
For pay of the Navy prior to July 1, 1883, \$12,874.40.  
For pay miscellaneous, 1883 and prior years, \$22.96.  
For contingent Marine Corps, 1886, \$82.25.  
For contingent Bureau of Equipment and Recruiting, 1883 and prior years, \$12.  
For enlistment bounties to seamen prior to July 1, 1883, \$590.72.  
For indemnity for lost clothing prior to July 1, 1883, \$60.  
For bounty for the destruction of enemy's vessels prior to July 1, 1883, \$22.05.  
For payments on account of clothing or bedding destroyed by order for sanitary purposes in preventing the spread of contagious diseases, 1886 and prior years, \$13.98.  
For payment of claims for difference between actual expenses and mileage allowed under the decision of the United States Supreme Court in the case of Graham vs. United States, \$6,773.56.

Mr. COCKRELL. This amendment is offered in accordance with a report made by the Secretary of the Treasury to-day in response to a resolution of the Senate passed on Friday last calling for the list of these claims which have been audited and allowed and properly certified since the last report.

The amendment was agreed to.  
Mr. ALLISON. I offer the following amendment, to be inserted on page 28, after line 668 of section 1:

For the rent of school buildings in the District of Columbia for the fiscal year 1887, \$1,500.

The amendment was agreed to.  
Mr. ALLISON. I also offer the following amendment to follow the one just adopted:

That the sum appropriated for the erection of school buildings during the current fiscal year as appropriated for by the District appropriation act be increased to \$75,000; and the sum of \$25,000 additional is hereby appropriated for said purpose.

Mr. EDMUNDS. That is a piece of very bad legislation to increase on a deficiency bill a regular yearly appropriation. It may be that it is necessary, but it would be very bad legislation indeed to put into a deficiency bill an increase of appropriation for carrying on the future work of the Government. I object to it.

Mr. ALLISON. I ask the Senator to withdraw his objection for one moment.

Mr. EDMUNDS. Certainly.  
Mr. ALLISON. There is an additional appropriation there of \$25,000 to meet the increase. It is a very necessary thing. Some of the buildings which have been occupied by the public schools in the District of Columbia have recently been vacated by a judgment of the court, so that they must have a new appropriation. This provision was agreed to by the Committee on Appropriations to be inserted on the sundry civil bill, but by a mistake of my own it was omitted on Saturday night from that bill. It is so important, however, that it ought to go on some bill, and although it is a little irregular I think it ought to be inserted.

Mr. EDMUNDS. I withdraw all objection under the circumstances. The amendment was agreed to.

Mr. DAWES. On page 50, after line 1208 of section 1, I move to insert:

To enable the Secretary of the Interior to pay to the Chippewa Indians residing upon Winnebagoish and Leech Lake Indian reservations in Minnesota, on account of damage heretofore sustained by them in consequence of the overflow

of the land of their reservations by the erection of United States reservoir dam, the whole amount of such damage to be hereafter ascertained, \$25,000.

The amendment was agreed to.

Mr. ALDRICH. I offer the following amendment, to come in on page 99, after line 2426, of section 1:

To pay to the family of the late William Hunter the amount of salary as Assistant Secretary of State for the fiscal year ending June 30, 1887, \$2,500.

The amendment was agreed to.

Mr. MANDERSON. I offer the following amendment to come in on page 101, after line 2490, at the end of section 1:

For payment of sixty-five printers regularly employed on the CONGRESSIONAL RECORD, \$90 each, for time unemployed during the present session, \$5,850.

The amendment was agreed to.

Mr. WILSON, of Iowa. On behalf of the Committee on Post-Offices and Post-Roads, and in the absence of the chairman, I offer the following amendment to come in after line 1320, of section 1, on page 54:

To enable the Secretary of the Treasury to pay the United States and Brazil Mail Steamship Company for carrying the United States mails during the fiscal year ending June 30, 1886, \$36,000.

Mr. GORMAN. I should like to have some explanation in regard to that matter.

Mr. WILSON, of Iowa. The explanation is simply this: In the transportation of the mails by that company there was no special agreement made with reference to compensation to the company, who performed the service regularly and acceptably. The Department agrees that it should have this additional compensation over and above the amount that it would receive from the inland and ocean postage. It was considered fully and carefully by the Committee on Post-Offices and Post-Roads, and they agreed, I believe unanimously, that that sum was a fair and reasonable compensation for the service rendered by the company.

Mr. PLUMB. I ask to have the amendment read again.

The PRESIDING OFFICER (Mr. PLATT in the chair). The amendment will be read.

The Chief Clerk read the amendment.

Mr. GORMAN. I know the amendment was referred to the Committee on Appropriations. I have no question that some amount is due this steamship company for this service, but, as I understand, no amount has been agreed on between the company and the Post-Office Department. I may be mistaken, but my impression is that this is to pay them at the rate of 50 cents per mile run. It seems to me unwise to make an appropriation here until the proper amount is ascertained.

Mr. WILSON, of Iowa. The Senator is mistaken in regard to the amount. It is not placed on that basis at all, but after considering the character of the service, the expense of the service to the company, this sum was agreed upon as a lump sum, so to speak, as a fair compensation.

Mr. GORMAN. I ask the Senator from Iowa has that amount been agreed upon by the Post-Office Department?

Mr. WILSON, of Iowa. I did not mean to say that the Post-Office Department had agreed on that particular sum. In fact, the Post-Office Department has not committed itself exactly to a particular sum, but it was left to the consideration of the committee, and the committee, having investigated the subject carefully, concluded that this amount was a fair compensation.

Mr. GORMAN. The Committee on Post-Offices and Post-Roads?

Mr. WILSON, of Iowa. Yes, sir.

Mr. GORMAN. Then I have no objection.

The amendment was agreed to.

Mr. HOAR. I move after line 1356, of section 1, on page 56, to insert the following:

To enable the Attorney-General to cause to be prepared a digest of the opinions of the Attorneys-General from 1881 to the time of publishing the new edition of the digest of such opinions from 1789 to 1881, \$300, or so much thereof as may be necessary.

Mr. COCKRELL. Is that under the resolution adopted this morning?

Mr. HOAR. It is. The amendment is subject to a point of order if anybody objects, but nobody, I am sure, will object after hearing an explanation.

We passed this morning a resolve to publish a new digest of the opinions of the Attorneys-General—not the opinions but the digest that comes down to 1881—and, of course, if we merely publish a new edition of the old book all the opinions in the years since 1881 will not be in it, and that book will be comparatively worthless. Accordingly the Senate adopted an amendment to the resolution this morning that there should be a digest of the opinions for these last five years; and it has been suggested to me that that would involve a small expense for preparing it in the Attorney-General's Office. This is only an appropriation of \$300, and it will prevent the waste entirely of the matter.

Mr. COCKRELL. I hope it will be agreed to. The resolution for printing that document was introduced by myself, and I think it is very important to have it printed.

The amendment was agreed to.

Mr. HARRIS. I offer the following amendment, to come in on page 94, after line 2301 of section 1:

To enable the Secretary of the Senate to pay Charles B. Reade, clerk of the

Committee on Rules of the Senate, for preparing, under resolutions of the Senate of July 1, 1884, February 23, 1885, and April 1, 1886, three editions of the Senate Manual, \$1,000.

The amendment was agreed to.

Mr. ALDRICH. I offer the following amendment, to come in at the bottom of page 56, in section 1, after line 1373:

National Board of Health:

To pay outstanding liabilities contracted by the National Board of Health for rent, clerk-hire, messenger service, traveling expenses, and sundry contingent expenses for the fiscal year ending June 30, 1885, \$1,449.37.

Mr. EDMUNDS. I should like to hear that explained.

Mr. HALE. Is it regularly estimated for?

Mr. ALDRICH. I am informed by the Secretary of the board that it is regularly estimated for. The vouchers which I have in my possession are all certified to by the proper officers as being correct.

Mr. HARRIS. If the Senator from Rhode Island will allow me, I think I can explain. In the appropriation bill of the session of 1884-'85 the House made an appropriation of a certain sum deemed to be necessary to pay the expenses of the National Board of Health up to the 1st of March, 1885, and also incorporated a clause in the bill repealing the act creating the board.

The bill came to the Senate in that form. The Senate increased the appropriation and struck out that part of the bill which repealed the act, but neglected to strike out that part of the act which limited the appropriation to the 1st of March. In consequence, the bill was so framed as to strike out the repealing clause and reduce the appropriation to the original amount appropriated by the House, being only sufficient to carry the board to the 1st of March, 1885. It left the board in existence, but with an appropriation not for the whole fiscal year. This is intended to cover that period from the 1st of March to the 30th of June, 1885, the end of the fiscal year.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Rhode Island [Mr. ALDRICH].

The amendment was agreed to.

Mr. TELLER. I offer an amendment on page 14, section 1, after the word "cents," in line 321, to add:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay William R. Beatty, of Denver, Colo., the sum of \$585.84 for services as internal-revenue gauger for Colorado from August 1, 1872, to January 31, 1873, which sum is hereby appropriated for that purpose out of any money in the Treasury not otherwise appropriated.

Mr. HALE. Is that estimated for by the Department?

Mr. TELLER. It is, I think.

Mr. HALE. If the Senator has the estimate for it it is not subject to the point of order.

Mr. TELLER. This is for services rendered in the internal-revenue department in 1872 and 1873. The Treasury Department, through the head of the Department, sends up a stated account showing services rendered for each month and the amount, with a recommendation that it be accepted. I think that brings it within the rule. It was by a technicality that this young man was left without his money and through no fault of his. They say the services were properly rendered, and the claim should have been put in at the time.

Mr. HALE. Is there a letter from the head of the Department?

Mr. TELLER. The head of the Department says under date of July 22, 1886, and there are several letters before that, but this is the important one—

Mr. EDMUNDS. Let it be read at the desk that we may hear it.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The letter will be read.

Mr. TELLER. There must be read with it the letter of the Commissioner of Internal Revenue, but let the letter of the Secretary of the Treasury be read first.

The Secretary read as follows:

TREASURY DEPARTMENT, July 22, 1886.

SIR: I have the honor to transmit herewith, for the consideration of the Senate Committee on Appropriations, copy of report of the Commissioner of Internal Revenue, of the 20th instant, in the matter of the claim of William R. Beatty, late internal-revenue gauger for Colorado, for services as such gauger from August 1, 1872, to January 31, 1873, \$585.84.

Respectfully, yours,

C. S. FAIRCHILD, Acting Secretary.

HON. WILLIAM B. ALLISON,  
Chairman Committee on Appropriations, United States Senate.

Mr. HALE. Whether that paper is an estimate is a question that I will take the ruling of the Chair upon.

The PRESIDING OFFICER. If there be no objection—

Mr. HALE. I make the point of order. I said I was willing to take the ruling of the Chair as to whether the letter brings it within the rule.

Mr. TELLER. There is a detailed statement sent here by the Treasury Department of the amount they recognize as due him, in addition to that. It seems to me that is an estimate within the meaning of the rule.

The PRESIDING OFFICER. The Chair will look at the letter.

Mr. TELLER. The Chair can hardly tell what that letter is without reading the letter of the Commissioner of Internal Revenue accompanying it.

The PRESIDING OFFICER. The letter of the Commissioner of Internal Revenue will be read.

The Secretary read as follows:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,  
Washington, July 20, 1886.

SIR: I have the honor to return herewith the letter of Hon. H. M. TELLER, United States Senate, referred by you to this office for report, and the accompanying papers, relative to a proposed amendment to the sundry civil appropriation bill authorizing payment to William R. Beatty, late internal-revenue gauger for Colorado, the sum of \$585.84 for services as such gauger from August 1, 1872, to January 31, 1873.

The records of this office show that William R. Beatty was appointed internal-revenue gauger in June, 1871, but did not file a proper bond or take the oath as required by law and regulations, or receive a commission as gauger, until February 6, 1873.

Prior to August 1, 1872, gaugers were paid by the distillers or rectifiers for whom the gauging was done.

Since August, 1872, they have been paid by the United States, under provisions of the act of June 6, 1872.

Accounts for fees as gauger for the months of August, September, October, November, and December, 1872, and January, 1873, were filed in this office by Mr. Beatty, which were not paid, for the reason that as there was no evidence that he had filed the bond or taken the oath required by law prior to February 6, 1873, there was no authority of law for paying for services rendered prior to the date he was duly qualified to act as such officer. The amount of fees to which Mr. Beatty would have been entitled for services rendered during the period stated, if he had been duly qualified, was \$585.84, as claimed, and as these services appear to have been faithfully rendered, this office would recommend favorable action on the claim as proposed.

Respectfully,

JOS. S. MILLER, *Commissioner.*

HON. SECRETARY OF THE TREASURY.

Mr. EDMUNDS. That seems to be a fair case.

Mr. TELLER. I think that brings it within the rule.

The PRESIDING OFFICER. Is the amendment reported by a committee or offered by the Senator?

Mr. TELLER. It is offered by myself, not reported by a committee, but it comes with the indorsement of a stated account sent from the Department.

Mr. HALE. I think the letter of the Secretary of the Treasury sending to the Senate the communication just read is enough, and I shall not insist on the point of order.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. McMILLAN. I offer an amendment to be inserted after line 613 of section 1.

The PRESIDING OFFICER. The Secretary suggests that the place the Senator indicates is not the proper place for the amendment. The words proposed to be inserted will be read.

The Secretary read as follows:

To pay George F. Potter the difference between the pay of a laborer and that of a clerk in the post-office from March 4, 1885, to April 5, 1886, \$520.

Mr. McMILLAN. It should come in under the head of Post-Office Department.

Mr. HALE. Is that estimated for?

Mr. McMILLAN. Yes, sir. On page 95—

Mr. HALE. I raise the point of order. That is not estimated for, nor is it to my knowledge reported as an amendment by any committee of the Senate.

Mr. McMILLAN. The amendment was referred to the Committee on Appropriations.

Mr. HALE. Was it reported from any committee?

Mr. McMILLAN. It was not reported from a committee. An item of a similar character was inserted in last year's bill.

The PRESIDING OFFICER. Was this amendment reported by any standing or select committee of the Senate and sent to the Committee on Appropriations?

Mr. McMILLAN. It has not been reported by the Committee on Appropriations. That is what I regret. I thought perhaps they would have done that. I observe other items of a similar character in the bill.

The PRESIDING OFFICER. If the question of order is insisted on the Chair will be bound to rule that the amendment is not in order.

Mr. HALE. There are no such items on the bill that I know of. The committee has been very careful. Of course if a standing committee investigates one of these subjects and reports it with a favorable recommendation, the Committee on Appropriations sometimes puts it on.

Mr. McMILLAN. What is this item in the bill?

To pay Maurice Ruddledsen the difference between the pay of a laborer, at \$720 per annum, and that of a messenger, at the rate of \$3.60 per day, from January 1 to June 30, 1886, \$291.70.

Mr. HALE. On what page?

Mr. McMILLAN. On page 97.

Mr. HALE. That is for an employé of the House of Representatives. We do not deal with the House of Representatives at all.

Mr. McMILLAN. Here is another item:

To pay Frank B. Gorman the difference between his pay as laborer and that of a page from January 13, 1886, to June 30, 1886, inclusive, \$97.50.

Mr. HALE. That is a House item.

The PRESIDING OFFICER. The Chair holds that the amendment is not in order.

Mr. BUTLER. I offer the following amendment, to come in after line 1073 of section 1, on page 44:

For completing coaling-shed and buildings, Port Royal Harbor, \$4,000.

Mr. HALE. Is that reported from a committee?

Mr. BUTLER. That amount has been estimated for in the Book of Estimates, on page 161. I introduced the amendment, and had it referred to the Committee on Appropriations, and therefore it is not amendable to any point of order.

Mr. HALE. Is it estimated as a deficiency?

Mr. BUTLER. I do not know about that. I have a letter from Commodore Harmony, which explains the whole matter.

Mr. HALE. It clearly ought not to go on this bill.

Mr. BUTLER. This is as good a bill as any for it to go on.

Mr. HALE. This bill is for deficiencies for last year and prior years.

Mr. BUTLER. I ask that the letter which I send to the desk be read.

The Secretary read as follows.

BUREAU OF YARDS AND DOCKS, NAVY DEPARTMENT,  
Washington, D. C., July 20, 1886.

SIR: Referring to your conversation this morning, in accordance with your request, I have the honor to state that there is now on hand in this bureau unexpended about \$4,000 of the appropriation for store-house and wharf at Port Royal, S. C.

The wharf is entirely completed and in use. Owing to the want of sufficient funds it has not been deemed advisable to commence work on the store-house until action is taken by Congress on the estimate submitted for \$1,000 additional, with which and the money on hand a building can be erected to hold 1,200 tons of coal, sufficient quantity of general stores for the station, and a berthing room for the sailors employed there, and also a small house for the officer in charge. The building now occupied by him is an old structure, formerly occupied by negroes, and is in such dilapidated condition as to be almost uninhabitable. I beg that you will favor the bureau by having the above-named sum, namely, \$1,000, for the purpose mentioned, added to the naval appropriation.

Very respectfully, your obedient servant,

D. B. HARMONY,  
*Chief of Bureau.*

HON. M. C. BUTLER, *United States Senate.*

Mr. HALE. That ought to have gone on the naval appropriation bill or the sundry civil bill.

Mr. BUTLER. I got it too late for the naval appropriation bill. That bill had been reported. This is the first bill I could get it in on.

The PRESIDING OFFICER. The question is on the amendment of the Senator from South Carolina [Mr. BUTLER].

Mr. HALE. What has the Chair done with my point of order?

The PRESIDING OFFICER. The Chair was not aware that the Senator raised a point of order. If he did he will state it.

Mr. HALE. This is not a deficiency and not proper for this bill.

Mr. BUTLER. I insist that it is a deficiency. Commodore Harmony so states.

The PRESIDING OFFICER. The Chair is not prepared to decide whether an amendment is for a deficiency or for some other object. As a question of order the Chair will not rule it out on such ground as that.

Mr. ALLISON. I call the attention of the Chair to the language of the bill which purports to be a bill to meet deficiencies for the fiscal year 1886 and prior years. If this money has been expended, of course it ought to go on this bill; but if it is to be expended for the next year I do not see how you can put it on this bill under the title of the bill.

Mr. BUTLER. It is a deficiency, and Commodore Harmony so states.

The PRESIDING OFFICER. The Chair is not prepared to decide as a question of order whether an amendment is or is not for a deficiency.

Mr. BUTLER. Let us have a vote on it.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from South Carolina [Mr. BUTLER].

The amendment was agreed to.

Mr. KENNA. I offer the following amendment, to come it on page 97, after line 2381 of section 1:

To pay Patrick V. Dolan the difference between the pay of a laborer at \$720 per annum and that of a messenger at the rate of \$3.60 per day from July 1, 1885, to January 1, 1886, \$302.40.

Mr. HALE. I must make the point of order on that.

Mr. KENNA. I hope the Senator will not urge any point of order against this proposition. It is precisely in every feature a duplicate of clauses already agreed to; and if there is any employé of either House who should receive this reasonable and fair compensation for his services it is this man, and the mere fact that he may not have given that attention to it which involves an amendment being introduced and referred to the Committee on Appropriations it seems to me ought not to affect him injuriously.

The PRESIDING OFFICER. The Chair notifies the Senator that the question of order is not debatable.

Mr. KENNA. I appeal to the Senator from Maine to allow the amendment to be voted on.

Mr. HALE. There are a good many such cases, and I must make the point of order on all of them.

The PRESIDING OFFICER. Is the amendment reported by a committee?

Mr. KENNA. It is not. I offer the amendment, not on a report, but on its merits.

The PRESIDING OFFICER. It is not estimated for by a Department. The Chair is bound to hold that the amendment is not in order.

Mr. KENNA. I only know that it is precisely like the preceding clause which makes a discrimination in favor of Maurice Ruddlesden, and my impression is that Mr. Dolan is as much entitled to this as an honest debt as Mr. Ruddlesden.

Mr. HALE. The item the Senator refers to, that he says discriminates, is a House item, that under the courtesies between the two Houses we have little or nothing to do with; but there are no provisions in this bill providing for this increase of pay for employes of the Senate. There are scores of cases where men are appointed as laborers and then do the duties of messengers. They are very desirous of doing the duties of messengers; it is a little higher rank and place, and after a little while they come in and want the pay of messengers for the work they do. The committee has put none of those on.

Mr. GORMAN. I move to strike out from lines 649 to 651 of section 1.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 27, after line 648, it is proposed to strike out the following words:

For judicial expenses: For counsel fees in defending the District of Columbia against the claims of Samuel Strong in the courts, \$1,000.

Mr. GORMAN. As I understand, there was no authority whatever to the District commissioners to employ extra counsel in this or any other case. Some \$8,000 are paid annually to the legal officers of the District of Columbia, and there is nothing to show that there was any special necessity for this appropriation. I therefore move to strike it out.

Mr. HALE. This is a provision that came to us from the House of Representatives. The committee investigated it, as they did all of those portions of the bill that came from the House, and found that here was a case involving a very great amount of money that is and has been in controversy in the courts for years. The counsel employed by the District has heretofore been in the employment regularly of the District; he has left that employment, and has gone into the practice of his profession by himself, but the commissioners of the District and the attorney of the District, Mr. Riddle, declared that his knowledge of this case was such that it would be very bad management and bad husbandry to discontinue his employment, and therefore they recommended this appropriation, and the House put it in the bill. The Committee on Appropriations of the Senate, with the exception perhaps of the Senator from Maryland—I do not know whether any one else was with him—thought it was a proper item, and left it in.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Maryland.

The amendment was agreed to.

Mr. EVARTS. On page 58, section 1, I move to strike out from line 1413 to line 1416 inclusive, as follows:

Provided, That for issuing any warrant or writ and for any other necessary service commissioners may be paid the same compensation as is allowed to clerks for like services, but they shall not be entitled to any docket-fees.

This bill contains some change of the fee bills, one of which the Senate Committee on Appropriations has discarded. I now move that this also be discarded, leaving the item to stand:

Fees of commissioners: For fees of commissioners, and justices of the peace acting as commissioners, \$50,000.

Leaving the regulation of their fees undisburbed by the present appropriation. The docket-fees are not very important in the aggregate, but they are of some importance to the commissioners and to some that are not largely compensated for their services. The Department of Justice recently within some years required these commissioners to do what had not been exacted from them before; that is, to keep docket entries and docket records with the same regularity as of a court, and to make reports of them to the Department of Justice. This docket-fee then stands on the same footing for these commissioners that it would stand for the clerks. I ask that this clause may be stricken out because it does not properly belong to an appropriation bill, and on its merits it ought not to be retained.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from New York [Mr. EVARTS].

The amendment was rejected.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole. The occupant of the chair desires to have the amendment made on page 29, in relation to the increase of water supply of the District of Columbia, reserved for a separate vote.

Mr. HALE. Let that be reserved.

Mr. EDMUNDS. What is that amendment?

Mr. HALE. About the reservoir.

The PRESIDING OFFICER. Are there any other reservations desired by Senators? If not, the question will be taken on the amendments in gross with that exception.

The amendments not reserved were concurred in.

Mr. EDMUNDS. Now we come to the reserved amendment.

The PRESIDING OFFICER. The reserved amendment will be stated.

The CHIEF CLERK. In section 1, line 686, after the words "submit to," the Senate, as in Committee of the Whole, struck out the words:

The board of engineers for fortifications and for river and harbor improvements whether any changes are demanded for reasons of safety or economy in the method of lining said tunnel heretofore adopted and pursued.

And inserted:

A board consisting of two expert civil engineers and two officers of the Corps of United States Engineers whether any and what changes are demanded for reasons of safety or economy in the entire system of the new water supply, including the reservoir and the method of constructing and lining said tunnel; and said board shall make full report thereon to the Secretary of War before such work shall be resumed.

So as to read:

To complete the reservoir, \$160,000; to complete the tunnel, \$395,000; in all, \$555,000, or so much thereof as may be necessary; but the Secretary of War is instructed forthwith, and before resuming work on said tunnel, to submit to a board consisting of two expert civilian engineers and two officers of the Corps of United States Engineers, &c.

Mr. SHERMAN (Mr. HARRIS in the chair). I have an amendment to the amendment which I should like to have adopted, and to which I hope there will be no dissent. I have shown it to the Senator in charge of the bill.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The amendment proposed by the Senator from Ohio to the amendment will be stated.

The CHIEF CLERK. In line 696, after the word "war," it is proposed to strike out the words "before such work shall be resumed," and to insert, "but pending such examination the work shall proceed upon such parts thereof as the Secretary of War shall direct," so as to read:

And said board shall make full report thereon to the Secretary of War, but pending such examination the work shall proceed upon such parts thereof as the Secretary of War shall direct.

Mr. HALE. I think that is right.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. SHERMAN. I think in line 685 the words "and before resuming work on said tunnel" should be stricken out, because the clause provides that the Secretary of War is instructed forthwith, &c. I move to strike out, after the word "forthwith," the words "and before resuming work on said tunnel."

The amendment to the amendment was agreed to.

The amendment as amended was concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

RECESS.

Mr. ALLISON. I move that the Senate at 6 o'clock take a recess until 8 o'clock this evening.

Mr. BECK. Tell us why.

Mr. KENNA. For what reason?

Mr. ALLISON. For every purpose connected with the public business.

Mr. EDMUNDS. To go on with work.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Iowa, that the Senate at 6 o'clock this evening take a recess until 8 o'clock.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After two hours and thirty-five minutes spent in executive session a recess was taken at 6 o'clock p. m.

EVENING SESSION.

The Senate reassembled at 8 o'clock p. m. in executive session, and after fifty minutes spent therein the doors were reopened.

CONSIDERATION OF PENSION BILLS.

Mr. SAWYER. I move that the Senate proceed to the consideration of pension bills on the Calendar favorably reported.

The PRESIDING OFFICER. The Senator from Wisconsin moves that the Senate proceed to the consideration of cases on the Calendar favorably reported from the Committee on Pensions. Is there objection? The Chair hears none, and the first case of that kind on the Calendar will be stated.

ELIZABETH MILLER.

The bill (S. 2768) granting a pension to Elizabeth Miller was announced as first in order, and the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to place on the pension-roll the name of Elizabeth Miller, dependent mother of Martin V. Miller, late acting second lieutenant of Company E, Seventieth New York

Volunteers, at the rate allowed to dependent relatives of second lieutenants.

The bill was reported to the Senate without amendment.

Mr. CULLOM. That seems to have been reported from the Committee on Military Affairs.

Mr. PLATT. I should like to have the report read in that case.

The PRESIDENT *pro tempore*. The report will be read.

Mr. CULLOM. This seems to have been reported from the Committee on Military Affairs, according to the Calendar.

Mr. PLATT. Therefore I should like to have the report read.

Mr. CULLOM. I do not see exactly how the Committee on Military Affairs got the control of a pension bill.

The PRESIDENT *pro tempore*. The Chair is advised that the Committee on Military Affairs reported this as a pension case as the best way of disposing of a claim. The report will be read.

The Secretary proceeded to read the report submitted by Mr. CAMERON from the Committee on Military Affairs July 29, 1886, but before concluding was interrupted by

Mr. GORMAN. I move to refer the bill to the Committee on Pensions. It evidently ought to be referred for their report.

The PRESIDENT *pro tempore*. The Senator from Maryland moves that the bill be referred to the Committee on Pensions.

The motion was agreed to.

CATHERINE REISINGER.

The bill (H. R. 5950) granting a pension to Catherine Reisinger was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Catherine Reisinger, widow of Martin Reisinger, late a private in Company B, Twenty-fifth Regiment Indiana Infantry Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JONATHAN S. LENTS.

The bill (H. R. 6425) granting a pension to Jonathan S. Lents was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Jonathan S. Lents, late a private in Company K, One hundred and forty-third Regiment of Indiana Infantry Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MRS. JULIA DE QUINDRE.

The bill (S. 2451) for the relief of Mrs. Julia De Quindre was considered as in Committee of the Whole.

The Committee on Pensions reported an amendment, in line 4, after the word "at," to strike out "fifty" and insert "twenty-five;" so as to make the bill read:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, at \$25 per month, the name of Julia De Quindre, for services as nurse during the war of the rebellion, subject to the provisions and limitations of the pension laws.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MORRIS T. MANTOR.

The bill (S. 2686) granting a pension to Morris T. Mantor was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Morris T. Mantor, late a private in Company F, of the Eighteenth Regiment Wisconsin Infantry Volunteers.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. MARY M. GILLHAM.

The bill (H. R. 8374) granting a pension to Mrs. Mary M. Gillham was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Mary M. Gillham, widow of James G. Gillham, late a private in Company I, Seventeenth Regiment of Iowa Infantry Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LIZZIE WRIGHT OWEN.

The bill (S. 2797) granting a pension to Lizzie Wright Owen was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Lizzie Wright Owen, only surviving daughter of George Wright, late a brigadier-general of United States volunteers, at the rate of \$50 per month.

Mr. SAULSBURY. There ought to be some explanation from the committee which reported these bills. We do not know anything about them unless we have the reports read. It is a very ungracious matter to object to pension bills unless we know something about them. I ask that the report be read in this case.

The PRESIDENT *pro tempore*. The report will be read.

The Secretary read the following report, submitted by Mr. BLAIR July 6, 1886:

The Committee on Pensions, to whom was referred the bill (S. 2797) granting a pension to Lizzie Wright Owen, have considered the same, and report:

The claimant is the daughter of George Wright, late a brigadier-general of the United States volunteers. We append hereto the record of his distinguished military service furnished by the War Department, and a notice of his services and death which appeared at the time. Also a copy of her petition, which states the grounds of her present claim, and other documents in support thereof.

She is now poor, and her physician in this city presents a statement of her present condition, that she is suffering with attacks of disease, increasing in severity, which will soon entirely disable her.

It will be observed that the extraordinary services and misfortunes detailed in this case prevent its forming a precedent to any extent for other applications, and to refuse this application would in the opinion of your committee be an exhibition of ingratitude unworthy the Republic.

We recommend the passage of the bill.

To the honorable Committee on Pensions, United States Senate:

GENTLEMEN: I have the honor to present my petition for a pension at the rate of \$50 a month in recognition of the services of my father, the late General George Wright, United States Army, who after more than forty years' services lost his life while in pursuance of his official duty in traveling from California to Oregon on the steamer Brother Jonathan, which was lost July 30, 1855.

His wife, my mother, losing her life at the same time, no pension has ever accrued to any member of the family for my father's services, and at this date, I, his only daughter, find myself a widow entirely dependent on my own exertion for the support of myself and daughter, with a son still dependent upon me for assistance in placing him in life. My health, which has of late failed, may at any time unfit me for further exertions, and I pray that a consideration of these facts and furthermore that my husband served for eighteen years as an officer of the regular Army, but resigning a short time before his death deprived me of a pension on his account, and that my brother, the late Col. Thomas F. Wright, to whom I might have looked for assistances in my present circumstances, having been killed in the Modoc war, and no pension being drawn at the present time for his service, may have such weight with the honorable committee, as may induce you to grant my prayer.

LIZZIE WRIGHT OWEN.

BRIGADIER-GENERAL WRIGHT.

When a noble and brave soldier falls in the heat of battle, the sorrow that must be felt is in a measure assuaged by the fact that he periled life in a noble cause—the defense of the land of his birth and the institutions of his government. We are apt, however, when we learn the sudden taking from our midst of a faithful soldier, to lose sight of the great good he accomplished in his official career. But a few brief days and we chronicled the departure of Brig. Gen. George Wright, to take command of the new military district of Columbia. We little thought that it should be our duty to pen the notice of his death, for we have no reason to doubt that he, with the ill-fated passengers of the Brother Jonathan, has found a watery grave.

California and the Pacific coast may well put on sables, for one of the truest and best of men has been taken from among us. As a military chieftain, his record stands among the most distinguished of American generals. Not alone was he great in the field—where masterly ability characterized his every action—but his diplomatic tact, as evinced during the trying period of the past four years, enabled our people to enjoy the blessings of peace.

We owe everything to that conciliatory spirit which marked General Wright's military administration, and it must be remembered that although many could not look into the future with his foresight, the whole nation is indebted, in a very great measure, for the pacification of the turbulent spirit which at one time threatened to embroil us on the Pacific coast in the horrors of rebellion and civil war. When we look back and review the past, we can not but feel grateful to the wisdom and prudence which marked General Wright's career. Isolated as we were at the inception of the rebellion, almost wholly without defense, with a community of mixed and multiform opinions, liable to become excited, and when excited to do deeds of violence, which sober second thought would condemn, he steered the bark of nationality throughout the whole sea of troubles with discretion, foresight, and wisdom. At the time we speak of California did not appear as prominent as history has made her. The slightest difficulty—a rupture between the civil and military authorities—would have embroiled her in the horrors which beset our sister States. At this period our industry was an essential to the maintenance of our Government and our institutions. If we were not in actual strife, if the clang, clamor, and clash of conflict did not resound from San Diego to Fraser River, we know of no one but Brigadier-General Wright to whom the honor and credit is due.

Peace has its victories as well as war. In a peaceful capacity General Wright did his country great service. Had California proved recreant to her fidelity to the Union; had our mines ceased to pour their wealth into the national Treasury, who could depict the sad picture of our national dishonor? During General Wright's direction of the military department of this coast, no measure was left untried which could further, not alone our own interests, but the great and absorbing interests of the General Government. By his wise and conciliatory conduct he cemented the bonds of union and drove gaunt war and all its attendant horrors from our midst.

General Wright was a soldier, and had a record that any great and good man might feel proud of. His career in Mexico and in the various Indian campaigns in Oregon is well known. He was born in Vermont, and entered the Army as a second lieutenant of the Third Infantry in July, 1822. His rank in the regular Army was colonel of the Ninth Regiment of Infantry, and he was brevetted a brigadier-general of volunteers in 1861. He leaves a son in the service, a colonel, commanding the Sixth Regiment of California Volunteers, at the Presidio.

As an officer he won the respect and esteem of all; as a man he was kind and genial; as a citizen he filled all the various positions with credit to himself and the flag he served and so revered. His loss is a public calamity, yet the keen edge of sorrow is tempered when we all know that, covered with years and honors, he surrendered life in the discharge of his duty.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE.

Washington, June 17, 1886.

Statement of the military service of George Wright, late of the United States Army, compiled from the records of this office.

He was a cadet at the United States Military Academy from September 14, 1818, to July 1, 1822, when graduated and appointed second lieutenant Third Infantry; promoted first lieutenant September 23, 1827, and captain October 30, 1836; transferred to Eighth Infantry July 7, 1838; promoted major Fourth Infantry January 1, 1848; lieutenant-colonel February 3, 1855; appointed colonel Ninth Infantry March 3, 1855, and brigadier-general United States Volunteers September 28, 1861.

He received the brevets of major March 15, 1842, "for meritorious conduct in zeal, energy, and perseverance in the war against the Florida Indians;" of lieutenant-colonel August 20, 1847, "for gallant and meritorious conduct in the battles of Contreras and Churubusco, Mexico;" of colonel September 8, 1847 "for gallant and meritorious conduct in the battle of Molino del Rey, Mexico," and

of brigadier-general December 19, 1864, "for long, faithful, and meritorious services."

He joined his regiment September 29, 1822, and served therewith at Fort Howard, Wis., to July, 1824; on recruiting service to May, 1826; with regiment at Fort Howard, Wis., to September, 1826; at Jefferson Barracks, Mo., to May, 1828; at Fort Leavenworth, Kans., to May, 1829; at Jefferson Barracks, Mo. (regimental adjutant from February 1, 1831, to October 30, 1836), to September, 1831, and at Fort Jesup, La., to October 7, 1836; on leave to February, 1837; on recruiting service to October, 1838; with regiment at Madison Barracks, N. Y., to May 2, 1840; at Fort Winnebago, Wis., to June 22, 1840; near Fort Crawford, Wis., to July 8, 1840; at Madison Barracks, N. Y., to August, 1840; at Jefferson Barracks, Mo., to September 3, 1840, and in the operations against Seminole Indians in Florida to June 3, 1841; on leave to October, 1841; with regiment in Florida to April 26, 1844; on recruiting service to December 25, 1846, when he joined his regiment and served with it in the war with Mexico, being wounded September 8, 1847, at the battle of Molino del Rey. He commanded the regiment from September 20 to November 25, 1847, the second brigade, first division, army of Mexico, from November 25 to December 15, 1847, and the regiment to February 20, 1848; was on detached service in the city of Mexico to March, 1848; on sick-leave to June, 1848; mustering out volunteer troops to August, 1848; awaiting orders to November, 1848; commanded the post of Fort Ontario, N. Y., from November 13, 1848, to June 15, 1852; *en route* to California to August 19, 1852; on duty at Benicia Barracks, Cal., to September 17, 1852; was in command of Fort Reading and the northern district of California to May 19, 1855; commanded his regiment at Fort Monroe, Va., from July to December 15, 1855; *en route* to Washington Territory to January 22, 1856; he commanded the Columbia River district to June, 1857; Fort Dalles, Oreg., to July 17, 1858; the expedition against Cœur d'Alene and Spokane Indians to October 16, 1858; Fort Dalles, Oreg., to June 15, 1859; Fort Walla Walla, Wash. Ter., to June 29, 1860; the Department of Oregon from July 5, 1860, to September 13, 1861; the Department of the Pacific from October 20, 1861, to July 1, 1864, and the district of California to July 27, 1865. He was drowned July 30, 1865, in the wreck of the steamer Brother Jonathan, while on his way to Portland, Oreg., to assume command of the Department of the Columbia.

O. D. GREENE,  
Assistant Adjutant-General.

WASHINGTON, D. C.

To the honorable the Chairman of the Senate Committee on Pensions:

The undersigned respectfully beg leave to invite the attention of your honorable committee to the claim for pension presented by Mrs. L. W. Owen, the daughter of the late General George Wright, United States Army.

General Wright entered the military service as a commissioned officer, upon graduation from the Military Academy in 1822, and remained therein, continuously, until his death in 1865, which occurred at sea by the foundering of the steamer Brother Jonathan, between San Francisco and the Columbia River, General Wright being at the time *en route* to Portland, Oreg., to assume command of the Department of the Columbia.

General Wright's record of military service extended over a period of near half a century, covering three wars (Seminole, Mexican, and the rebellion), and unnumbered conflicts with hostile Indians, in all of which he was most highly distinguished and successful.

While serving in the junior grades his record was invariably characterized by zeal, energy, and brilliant acts of gallantry. In the higher grades, and especially as a general officer in command of the Department of the Pacific during the critical period of the late war, his services were of inestimable value, characterized by wisdom and ability, both as soldier and statesman, of the highest order.

His whole career was that of the gallant, noble, heroic, spotless man and soldier whose deeds and fame will ever be remembered and cherished in our service.

At the time of his death he was accompanied by his wife, who went down with him. His son was killed in the lava-beds during the Modoc war while gallantly leading his company.

We are informed that no claim for pension has heretofore been presented on account of the services of either father or son. Mrs. Owen, the only daughter, was widowed several years since and left with quite a family of children. By her own exertions she has hitherto reared, educated, and maintained her children most respectably and well; but now, with advancing years and failing health, she asks aid from a generous Government in her and their support.

We respectfully beg to hope her claim will receive your most favorable attention and consideration.

P. H. SHERIDAN,  
Lieutenant-General.

R. MACFEELY,  
Commissary-General of Subsistence, Brigadier-General, U. S. Army.

J. C. KELTON,  
Colonel, Assistant Adjutant-General.

JOHN NEWTON,  
Brigadier-General, Chief of Engineers.

JOHN M. WILSON,  
Lieutenant-Colonel Engineers, Colonel, U. S. Army.

JOHN G. PARKE,  
Colonel of Engineers, Brevet Major-General.

S. V. BENET,  
Brigadier-General, Chief of Ordnance.

A. BAIRD,  
Brigadier-General, Inspector-General.

O. D. GREENE,  
Assistant Adjutant-General, Brevet Brigadier-General.

ROBT. N. SCOTT,  
Lieutenant-Colonel Third United States Artillery.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SALLIE B. BENT.

The bill (H. R. 6606) granting a pension to Sallie B. Bent was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Sallie B. Bent, dependent mother of David P. Bent, late a private in Company G, Fourth Regiment Vermont Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIZABETH WARD.

The bill (S. 2587) granting a pension to Elizabeth Ward was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Elizabeth Ward, the dependent widow of General Durbin Ward, at the rate of \$100 per month.

Mr. PLATT. Let the report be read.

Mr. CAMDEN. Let us have the report read in that case.

The PRESIDENT *pro tempore*. The report will be read. The Secretary proceeded to read the report, submitted by Mr. BLAIR from the Committee on Pensions, July 6, 1886, but before concluding, Mr. HALE. That is right; let it go. I hope the bill will pass without objection. The whole country knows about the case.

Mr. CAMDEN. I withdraw the call for the reading of the report. I did not understand the case. I see that it is all right.

The PRESIDENT *pro tempore*. Does the Chair understand the Senator from Connecticut [Mr. PLATT] to call for the reading of the report?

Mr. PLATT. I did call for the reading of the report, and I wish to record my vote against this case.

Several SENATORS. It is all right. The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOSHUA ARMSTRONG.

The bill (H. R. 2027) granting a pension to Joshua Armstrong was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Joshua Armstrong, dependent father of John E. Armstrong, late of Company A, Seventh Regiment United States Cavalry.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARIA L. STRONG.

The bill (S. 2708) for the relief of Maria L. Strong was considered as in Committee of the Whole. It proposes to pay out of the Navy pension fund, to Maria L. Strong, widow of the late Real-Admiral James H. Strong, of the United States Navy, \$50 per month, during her widowhood, in lieu of her present pension.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. ANTONIA B. LYNCH.

The bill (H. R. 1630) to increase the pension of the widow of the late Capt. Dominick Lynch, United States Navy, was considered as in Committee of the Whole.

The Committee on Pensions reported an amendment, in line 6, before the word "dollars," to strike out "thirty" and insert "forty;" so as to make the bill read:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized to increase the pension now allowed Mrs. Antonia B. Lynch, widow of the late Capt. Dominick Lynch, United States Navy, from twenty-five to forty dollars per month.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

SUSAN E. ALGER.

The bill (S. 363) for the relief of Susan E. Alger was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and in lieu thereof to insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Susan E. Alger, dependent mother of Warren A. Alger, late of Company D, Fifteenth Regiment of Massachusetts Volunteers.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BENJAMIN F. BERKLEY.

The bill (S. 2311) granting an increase of pension to Benjamin F. Berkley was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Benjamin F. Berkley, formerly of Company C, Seventh Regiment Illinois Cavalry, at the rate of \$24 a month, in lieu of the pension he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MICHAEL FITZPATRICK.

The bill (S. 2803) granting a pension to Michael Fitzpatrick was announced as next in order.

The PRESIDENT *pro tempore*. The Chair is advised that a House bill of precisely similar character is upon the Calendar; and if there be no objection the House bill will be placed before the Senate instead of the Senate bill, and the Senate bill indefinitely postponed.

Mr. SAWYER. I ask that the House bill be considered.

The bill (H. R. 8963) granting a pension to Michael Fitzpatrick was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Michael Fitzpatrick, late a private in Company A, One hundred and fiftieth New York Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. SAWYER. I move that the bill (S. 2803) granting a pension to Michael Fitzpatrick be indefinitely postponed.

The motion was agreed to.

#### PENSIONS FOR DEAFNESS AND LOSS OF SIGHT.

The bill (S. 2818) to increase the rate of pension for deafness and loss of sight was announced as next in order.

Mr. COCKRELL. That is a general bill. Let that be passed over. The PRESIDENT *pro tempore*. The bill will be passed over. The next case will be stated.

#### MRS. ELIZABETH COLLINS.

The bill (H. R. 7728) granting a pension to Mrs. Elizabeth Collins was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Mrs. Elizabeth Collins, widow of William H. Collins, late of Company H, Sixth Regiment of Minnesota Volunteer Infantry.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### GEORGE H. LAURENCE.

The bill (H. R. 1617) for the relief of George H. Laurence was considered as in Committee of the Whole. It proposes to increase the pension of George H. Laurence, late a first lieutenant and brevet major of Company C, Second Regiment New York Mounted Rifles Volunteers, United States Army, to \$30 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### MARGARET D. MARCHAND.

The bill (S. 226) granting a pension to Margaret D. Marchand was announced as next in order.

Mr. PLATT. I presume that it is not proposed to take that bill up to-night.

The PRESIDENT *pro tempore*. That is one of the bills vetoed by the President.

Mr. COCKRELL and Mr. HARRIS. Let it be passed over.

The PRESIDENT *pro tempore*. The bill will be passed over.

#### THEODORE DUNMIRE.

The bill (H. R. 8057) for the relief of Theodore Dunmire was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Theodore Dunmire, late of Company E, First Regiment United States Veteran Engineers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### FRANCIS W. HALDEMAN.

Mr. SPOONER. I ask that Order of Business 1695 may be taken up at this time. It is not absolutely a pension case, but it is so near it that I think the Senate will not object. It is a House bill.

Mr. HOAR. Let it be read, for information.

The PRESIDENT *pro tempore*. The Senator from Wisconsin asks the unanimous consent of the Senate pending the present order to proceed to the consideration of a bill which will be read for information.

The Chief Clerk read the bill (H. R. 658) for the relief of Francis W. Haldeman, and the Senate, as in Committee of the Whole, proceeded to consider it. It proposes to pay to Francis W. Haldeman, of Avoca, Iowa, \$200, as compensation for services performed and money expended for the benefit of the United States during the late civil war.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### INTERNATIONAL SHEEP AND WOOL SHOW.

Mr. HAWLEY. I ask unanimous consent to correct a mistake made in the passage of a printing resolution day before yesterday. The Senate, intending to concur with the House in the passage of a joint resolution, acted upon a copy, which was the original House resolution. The House passed an amended resolution, and that is what we intended to concur in. I move to reconsider the vote by which the Senate ordered to a third reading and passed the joint resolution (H. Res. 138) to print ten thousand copies of the Report of the Commissioner of Agriculture on the International Sheep and Wool Show, held in Philadelphia in September, 1880.

The motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. The joint resolution is before the Senate and open to amendment.

Mr. HAWLEY. I desire to have the joint resolution passed. It is the one the Senate thought it was passing, and is the same thing precisely except in line 9 of the copy passed by the Senate the word "three" occurred before the word "thousand" in place of the word "one."

Mr. COCKRELL. What is the number for the Senate and for the House?

The PRESIDENT *pro tempore*. The joint resolution will be read at length.

The joint resolution was read, as follows:

*Resolved, &c.*, That there be printed 10,000 copies of the Report of the Commissioner of Agriculture on the International Sheep and Wool Show, held in Philadelphia, Pa., in September, 1880; of which 3,000 copies shall be for the use of members of the Senate, 6,000 copies for the use of members of the House of Representatives, and 1,000 copies for the use of the Commissioner of Agriculture; the work to be subject to the approval of the Commissioner of Agriculture.

The joint resolution was ordered to a third reading, read the third time, and passed.

The PRESIDENT *pro tempore*. Does the Senator from Connecticut wish to have the copy which was passed recalled from the House?

Mr. HAWLEY. It has not been sent to the House. The clerks retained it here.

#### ARETUS N. BUTLER.

The PRESIDENT *pro tempore*. The next pension bill on the Calendar will be proceeded with.

The bill (H. R. 7749) granting a pension to Aretus N. Butler was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Aretus N. Butler, late a member of Company B of the Twenty-seventh Iowa Infantry.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### GEORGE W. PARKS.

The bill (H. R. 7736) granting a pension to George W. Parks was considered as in Committee of the Whole. It proposes to increase the rate of pension now allowed to George W. Parks, late a private in Company I, Seventh Regiment Missouri Cavalry Volunteers, from \$30 per month to \$45 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### WILLIAM H. H. BUCK.

The bill (H. R. 3118) granting an increase of pension to William H. H. Buck was considered as in Committee of the Whole. It proposes to place the name of William H. H. Buck, late of Company G, First Vermont Cavalry, upon the pension-roll, at the rate of \$12 per month, instead of \$6 per month, as provided by act of Congress approved March 3, 1879.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### SAMUEL BULMAN.

The bill (H. R. 8977) to restore to the pension-roll the name of Samuel Bulman was considered as in Committee of the Whole. It proposes to restore to the pension-roll the name of Samuel Bulman, late a private in Company M, First Regiment New York Volunteer Artillery, as dependent father of Dewitt C. Bulman, late a private in Company B, Twenty-eighth New York Volunteers.

Mr. COCKRELL. Let the report be read in that case.

The PRESIDING OFFICER (Mr. HAWLEY in the chair). The report will be read.

The Secretary read the following report, submitted by Mr. BLAIR July 13, 1886:

The Committee on Pensions, to whom was referred the bill (H. R. 8977) to restore to the pension-roll the name of Samuel Bulman, have examined the same, and report:

The facts of this case are briefly stated in the annexed report of the House committee, made during the present session, House Report No. 2551, which we adopt, and recommend the passage of the bill:

The claimant in this case was himself a private of Company M, First Regiment New York Artillery, and, as appears from the official discharge on file, enlisted September 4, 1862, and was discharged March 25, 1863, "for physical disability by reason of old age, no upper teeth, broken-down constitution, and improper enlistment."

The son, Dewitt C. Bulman, private Company B, Twenty-eighth New York Volunteers, was killed in battle at Cedar Mountain, August 9, 1862, as appears by the report from the Adjutant-General's Office.

It appears by the evidence on file in the Pension Office that the son contributed to the support of the claimant \$50 per year for the four years prior to his enlistment, and sent home \$40 while in the service.

The claimant was placed on the pension-roll July 8, 1869, as the dependent father of said soldier, at the rate of \$5 per month, and in November, 1878, he made application for an additional pension for disability incurred while in the service of the United States. While said claim for additional pension was pending the claimant was dropped from the roll as dependent father on the ground that at the time of the death of his son the claimant was not dependent on him, for the reason that he himself was in the United States service as a soldier. The evidence from the Adjutant-General's Office, however, shows that the father enlisted about a month after the death of his son, who for four years had been contributing to his support, and these facts show that the Department was incorrect in its reasons for suspending and dropping him from the rolls.

The special examiner having charge of the examination on the application for additional pension, in his report of date September 16, 1885, finds against his claim for the additional pension, but says:

"The pension as dependent father is undoubtedly very meritorious, and I recommend its continuance."

The claimant is seventy years of age, has been stricken with paralysis, and is poor and dependent. His son, who had contributed to his support for years, was killed in battle. The claim is eminently meritorious, as a dependent father, and the committee recommend the passage of the bill herewith reported as a substitute for House bill 6531, by which the claimant is restored to the pension-roll as the dependent father of Dewitt C. Bulman, late private of Company B, Twenty-eighth New York Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MRS. AURELIA C. RICHARDSON.

The bill (H. R. 1584) for the relief of Mrs. Aurelia C. Richardson was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Mrs. Aurelia C. Richardson, dependent mother of Albert H. Fillmore, late of Company F, Eleventh New York Cavalry Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARY ANN DOUGHERTY.

The bill (S. 2868) granting a pension to Mary Ann Dougherty was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Mary Ann Dougherty, at the rate of \$12 per month.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EMMA J. HALLOWAY.

The bill (H. R. 578) for the relief of Emma J. Halloway was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Emma J. Halloway, widow of Henry C. Halloway, late a captain and commissary of subsistence in the United States Army.

Mr. COCKRELL. Let the report be read in that case.

The PRESIDING OFFICER. The report will be read.

The Secretary read the following report, submitted by Mr. SEWELL July 20, 1886:

The Committee on Pensions, to whom was referred the bill (H. R. 578) for the relief of Emma J. Halloway, have examined the same, and report as follows: The committee find upon examination that the papers in the case show the following statement of facts, as set forth in the report of the House Committee on Invalid Pensions:

The claimant is the widow of Henry C. Halloway, who served during the entire war, for the first few months in the Nineteenth Regiment Indiana Volunteers, and later, by appointment of President Lincoln, as assistant commissary of subsistence, with the rank of captain.

The evidence of the late Commissioner of Pensions, Col. W. W. Dudley, is to the effect that he had known the soldier since boyhood, and was a comrade with him in aforesaid Nineteenth Indiana Regiment. He further says "that afterward the said Halloway was serving in the same army and part of the time in the same division with him; that his acquaintance was intimate and that he remembers well that at the battle of Gettysburg the said Halloway was seriously injured by being thrown from his horse, which was shot under him and fell upon him; that he was not an eye-witness to the accident, but that it was a matter of common report in the command in which he was then serving and where Halloway had many warm friends, and that this was known to him very soon after it happened, and that said Halloway was seriously injured in the chest by said accident. He says that Halloway was a stout, robust man when he entered the service, and that he so continued until the time of said accident; that he then complained of said injury and that his health failed him, and that he continued to grow worse, until his death, as said Dudley believes, was the result of said accident. A number of persons testify to the physical soundness of said Halloway prior and up to the time of his entering the army."

Dr. J. K. Bigelow, a member of the board of pension-examining surgeons of Indianapolis, testifies that he began to treat said Halloway in 1866 for lung trouble, and continued his treatment for ten years for that disease, and also for chronic diarrhea.

This officer appears, from the testimony of those who served with him, to have been conspicuous for his gallantry, and although serving on the staff of general officers, in a capacity where he was not required to go into a general engagement, he never lost an opportunity to act as aide-de-camp, and could always be seen in the thickest of the fight. While serving in the Nineteenth Indiana he was engaged in every skirmish and battle in which that regiment took part.

He never applied for a pension, because he said he did not need one. He has, however, left his widow without property, and she, having applied at the Pension Office, has met with a rejection of her claim upon the ground that the origin of his fatal disease in the service was not sufficiently proven.

This committee, after a careful review of the above case, feel justified in reversing the decision of the Pension Office, and without hesitation say that they believe that this officer died of an injury and disease contracted in the military service and in the line of his duty, and that his widow should be pensioned; and therefore report the bill to the House with a favorable recommendation, and ask that it do pass.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANN KINNEY.

The bill (H. R. 5389) granting a pension to Ann Kinney was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Ann Kinney, widow of Edward Kinney, late a private in Company E, Seventy-seventh Ohio Infantry Volunteers.

Mr. COCKRELL. Let the report be read in that case.

The PRESIDING OFFICER. The report will be read.

The Secretary read the following report, submitted by Mr. SAWYER July 20, 1886:

The Committee on Pensions, to whom was referred the bill (H. R. 5389) granting a pension to Ann Kinney, have examined the same, and report:

The claimant is the widow of Edward Kinney, who was pensioned at the rate of \$18 per month. The Pension Office rejected her application on the statements, which were solicited, of two persons who, it is alleged, were prejudiced, and whose statements are positively contradicted by sworn evidence. The report of the House committee is adopted, and is as follows:

"Ann Kinney is the widow of Edward Kinney, who was a private in Company E, Seventy-seventh Ohio Volunteer Infantry, who was upon the pension-rolls at \$18 per month from 1862 until the time of his death, which occurred September 5, 1875. Mrs. Kinney filed her claim November 28, 1877, alleging that her husband died from the effects of his wounds received at the battle of Shiloh. The Pension Office disputed this fact and alleged that death ensued from the result of a drunken spree, as Kinney was said to have been addicted to the intemperance use of liquors, and for this reason the widow's claim was rejected.

"Only two witnesses are brought up to sustain this allegation—one of them

the postmaster at Bellaire, Ohio, and the other the city marshal of the same place. These two persons were not even sworn when giving this testimony, and as both were persons who disliked Kinney, it is not probable they would say anything in his favor. On the other hand, a large amount of testimony, sworn to, was adduced by Mrs. Kinney to the effect that her husband was subject to epileptic fits, and that death ensued from congestion of the brain while in one of those fits. In view of these facts, and that the unsworn testimony of the persons stated seems to be all upon which the rejection of the claim was based, your committee recommend that the bill do pass."

The bill is herewith reported to the Senate, with a recommendation that it do pass.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM HICKS.

The bill (H. R. 1681) for the relief of William Hicks was considered as in Committee of the Whole. It proposes to place the name of William Hicks, late of Company D, Fifth Regiment Vermont Volunteer Infantry, on the pension-roll.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PETER ADAMS.

The bill (H. R. 7163) granting a pension to Peter Adams was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Peter Adams, late of Company D, One hundred and sixty-fifth Regiment Pennsylvania Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ERASTUS W. KENNEDY.

The bill (H. R. 8046) granting a pension to Erastus W. Kennedy was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Erastus W. Kennedy, late a private in Company K, Ninth Regiment Michigan Infantry Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WARREN L. RICE.

The bill (H. R. 7517) for the relief of Warren L. Rice was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Warren L. Rice, late a private in Company F, Sixth Michigan Heavy Artillery.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JAMES ROBINSON.

The bill (H. R. 7169) to grant a pension to James Robinson was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of James Robinson, late of Company F, Fortieth Regiment United States Infantry.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LUCINDA SAWYER.

The bill (H. R. 8333) granting a pension to Lucinda Sawyer was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Lucinda Sawyer, stepmother of John Sawyer, late a private in Company C, Third Regiment Maine Volunteers.

Mr. COCKRELL. Let the report be read in that case.

The PRESIDING OFFICER. The report will be read.

The Secretary read the following report, submitted by Mr. SAWYER July 20, 1886:

The Committee on Pensions, to whom was referred the bill (H. R. 8333) granting a pension to Lucinda Sawyer, have examined the same, and report:

This is the claim of a dependent step-mother. The soldier, John Sawyer, died from wounds received in battle, and his dependent father received a pension until he died. There has been no application for pension, because a step-mother can only be pensioned by special act. The need and worthiness of this claimant is well described in the report of the House committee, which is adopted and is as follows:

"The petitioner is the step-mother of John Sawyer, a private of Company C, Third Regiment Maine Volunteers, who died from wound received in the first battle of Bull Run. The mother of soldier died while he was an infant. His father married the petitioner when John was about three years old, and she filled a mother's place in every particular from that time till the time of his death; in fact, she had the care of him almost from the time of his father's death. She reared him as her own child, nursed, clothed, and worked hard for him; for the family seem to have been poor.

"Leason Sawyer was pensioned as dependent father of the soldier. He died in 1879. The claimant was equally dependent with the father upon the pension for support, but, as a step-mother, can have no claim under the laws governing pensions. She is sixty-three years old, and in feeble health, with no means of support, having no money or property from which she derives any income.

"It is in the line of numerous precedents, and this committee think it is right that this woman, the only mother John Sawyer ever knew, who nursed him and reared him and sent him forth to die in the service of his country, is entitled to the same consideration she would receive as his natural mother.

"We therefore report the accompanying bill and recommend that it do pass."

DEPARTMENT OF THE INTERIOR, PENSION OFFICE.

Washington, D. C., June 15, 1886.

SIR: In response to your request for the papers in the case of Lucinda Sawyer, step-mother of John Sawyer, Company C, Third Maine Volunteers, I have the honor to state that the records and files of this office fail to show that a claim for pension by Mrs. Sawyer, or by any other person on account of the service of the above-named soldier, has ever been filed.

Very respectfully,

JOHN C. BLACK, Commissioner.

HON. JOHN I. MITCHELL,  
Chairman Senate Committee on Pensions.

The bill is herewith reported to the Senate with a recommendation that it do pass.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JAMES F. SALYERS.

The bill (H. R. 3948) granting a pension to James F. Salyers was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of James F. Salyers, late a private in Company B, Eighteenth Regiment Kentucky Volunteer Infantry.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM P. SHELTON.

The bill (H. R. 3851) granting a pension to William P. Shelton was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of William P. Shelton, late of Company A, First Alabama Cavalry Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JACOB NIX.

The bill (H. R. 8334) granting a pension to Jacob Nix was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Jacob Nix, who served as a captain in the Brown County (Minnesota) militia during the attack of Indians upon New Ulm, Minn., August, 1862, and grant him the pension as a captain.

Mr. COCKRELL. Let the report be read in that case.

The PRESIDING OFFICER. The Secretary will read the report.

The Secretary read the following report, submitted by Mr. SAWYER July 20, 1886:

The Committee on Pensions, to whom was referred the bill (H. R. 8334) granting a pension to Jacob Nix, have examined the same, and report:

The claimant was pensioned by special act of Congress, at the rate of \$6.66. A recent examination reports him totally disabled. The committee adopt the report of the House committee, which is as follows:

"Claimant was a captain of a company called out by the governor of the State of Minnesota during the Sioux Indian outbreak and massacre, 1862, when he was wounded in the hand and arm, and lost its use on account of said wound.

"The Legislature of the State of Minnesota passed the following resolution:

"That our Senators and Representatives in Congress are hereby requested to obtain a special act of Congress granting a captain's pension to said Jacob Nix, or such other relief as his condition demands.

"Approved February 2, 1881."

"Claimant was granted a pension by act of Congress approved July 22, 1882, with the rank of captain, at the rate of one-third disability. In accordance with said act claimant is now drawing a pension of \$6.66½ per month. Owing to the act referred to claimant is barred from the relief intended and can not be rated in accordance with his disability. The Mankato board of examining surgeons makes the following report:

"The examination reveals the following conditions: A circular cicatrix, size of quarter of a dollar, on inner side of left arm, a little anteriorly and about 3 inches above internal condyle of humerus, said to be site of alleged gunshot wound; no exit wound, ball being removed some time after injury; arm and forearm atrophied, measuring 1 inch less than right; loss of left ring finger, it being amputated near metacarpophalangeal joint; cicatrix adherent to bone and very tender; muscles of left hip, thigh, and leg much atrophied; knee joint enlarged, tender, and painful; is very lame. Claimant connects this condition with gunshot wound. Thinking it not our province to rate this injury we omit it, and rate for gunshot wound of left arm three-fourths of total; for loss of left ring finger one-fourth of total. We find the disabilities entitle him to a total rating."

"Your committee recommend that House bill 6096 lie on the table and the accompanying substitute be adopted in lieu of said bill."

The bill is herewith reported to the Senate, with a recommendation that it do pass.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time and passed.

ELIZABETH S. DE KRAFFT.

The bill (S. 2730) granting an increase of pension to Elizabeth S. De Krafft was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Elizabeth S. De Krafft, widow of John Charles Philip De Krafft, late a commodore and rear-admiral in the United States Navy, at \$50 per month, in lieu of that which she is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS S. DUVALL.

The bill (H. R. 887) granting a pension to Thomas S. Duvall was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of Thomas S. Duvall, late captain of Company A, Kentucky Home Guards.

Mr. COCKRELL. Let the report be read in that case.

The PRESIDING OFFICER. The Secretary will read the report.

The Chief Clerk read the following report, submitted by Mr. BLAIR July 20, 1886:

The Committee on Pensions, to whom was referred the bill (H. R. 887) granting a pension to Thomas S. Duvall, have examined the same, and report:

Your committee have considered the facts in this case and adopt the report of the Committee on Invalid Pensions of the House of Representatives made during the present session (House Report No. 2623), and recommend that the bill do pass.

Thomas S. Duvall was captain of Home Guard Company attached to Eighteenth Kentucky Infantry Volunteers, under command of Col. John J. Landrum; that on 17th July, 1862, and during an engagement in the battle of Cynthiana, Ky., he received a gunshot wound in left hand, resulting in amputation.

He filed claim for pension June 16, 1882, which was rejected on the ground that no claim of a State militiaman or non-enlisted person, on account of disability from wounds or injury in battle with rebels or Indians while temporarily rendering service, shall be valid unless prosecuted to a successful issue prior to July 4, 1874.

Your committee has invariably recommended the passage of similar bills. This case is a very meritorious one. We therefore recommend the passage of the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SALLY A. STONE.

The bill (H. R. 5041) granting a pension to Sally A. Stone was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Sally A. Stone, dependent mother of Lieut. Col. Henry M. Stone, deceased, late of the Third New York Volunteer Artillery.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CATHERINE M. LEE.

The bill (S. 2790) granting a pension to Catherine M. Lee was considered as in Committee of the Whole.

The Committee on Pensions reported an amendment, in line 7, before the word "dollars," to strike out "twenty-five" and insert "twelve;" so as to make the bill read:

*Be it enacted, &c.,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Catherine M. Lee, a volunteer nurse during the late war, and pay her a pension at the rate of \$12 per month.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MARTIN V. CURRY.

The bill (H. R. 9457) granting a pension to Martin V. Curry was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Martin V. Curry, late a private in Company G, First Regiment United States Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ABEL MISHLER.

The bill (H. R. 2964) to restore to the pension-list the name of Abel Mishler, of Pennsylvania, was considered as in Committee of the Whole. It proposes to restore to the pension-list the name of Abel Mishler, late a first lieutenant of Company H, One hundred and twenty-eighth Regiment Pennsylvania Volunteers, and quartermaster of that regiment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JONAS SCHOONOVER.

The bill (H. R. 8663) to increase the pension of Jonas Schoonover was considered as in Committee of the Whole. It proposes to increase the pension of Jonas Schoonover, late colonel of the Twenty-ninth Regiment Ohio Infantry Volunteers (who is now on the pension-roll under certificate of invalid pensions numbered —, at the rate of \$30 per month), to \$40 per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

VETOED PENSION BILLS.

Mr. SAWYER. Mr. President—

Mr. HARRIS. The bills on the Calendar from Order of Business No. 1745 to 1760 inclusive, being bills which have been vetoed by the President, should be passed over.

Mr. SAWYER. That is just what I was going to suggest, that we pass over vetoed cases.

The PRESIDING OFFICER. The bills referred to will be passed over.

THOMAS W. EGAN.

The bill (S. 2682) granting a pension to Thomas W. Egan was considered as in Committee of the Whole.

The Committee on Pensions reported an amendment in line 7, after the word "month," to strike out "from the 29th day of September, 1864, in lieu of the pension he is now receiving," and insert "in lieu of any pension he is now receiving;" so as to make the bill read:

*Be it enacted, &c.,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Thomas W. Egan, late colonel of the Fortieth Regiment New York Volunteers, and pay him a pension of \$100 per month, in lieu of any pension he is now receiving.

Mr. COCKRELL. Let the report be read.

The PRESIDING OFFICER. The report will be read. The Chair understands it is quite a long report.

Mr. HARRIS. Let the bill go over then.

Mr. SAWYER. It is report No. 1534.

Mr. CULLOM. May I inquire what the case is?

The PRESIDING OFFICER. The bill is for the relief of Thomas W. Egan.

Mr. SAWYER. The report is here.

The PRESIDING OFFICER. The Chair understands that the report proper is not very long.

The Chief Clerk proceeded to read the report, submitted by Mr. VAN WYCK from the Committee on Pensions July 20, 1886.

Mr. COCKRELL. That is a very long report.

The PRESIDING OFFICER. The Chair understands that the body of the report is not long.

Mr. COCKRELL. Unless there is some grave reason why this pension is put up to \$100 I shall have to object.

Mr. SEWELL. I beg that the Senator from Missouri will not object to the case. It is a very peculiar one. I served with General Egan. He was one of the most gallant men in the Army of the Potomac. He is utterly and totally unfit to earn a living and has been for a number of years. He was wounded, I do not know how many times, but a great many. He was one of the most gallant men we had, always in the thickest of the fight, and he always managed to get wounded in almost every fight the Army was engaged in. I look upon it as a most meritorious case, one where you can not in view of the fact that he was a volunteer officer put him on the retired-list as you would an officer of the regular Army similarly situated, utterly unable to earn a living. I think the Senator ought not to object to that. The Senate ought to pass the bill.

The PRESIDING OFFICER. Does the Senator withdraw his objection?

Mr. COCKRELL. Let the reading proceed.

The PRESIDING OFFICER. Objection is withdrawn.

The Secretary resumed the reading of the report.

Mr. CULLOM. I thought all objection was withdrawn.

Mr. COCKRELL. I want the report read without the exhibits.

The Secretary resumed and concluded the reading of the report, as follows:

The Committee on Pensions, to whom was referred the bill (S. 2682) granting a pension to Thomas W. Egan, have examined the same, and report as follows: Thomas W. Egan was colonel of the Fortieth Regiment New York Volunteers; that he is now and has been since 1864 receiving a pension at the rate of \$30 per month.

General Egan was a brave, faithful, and distinguished officer—distinguished for long, faithful, and valuable service. His long service was exceptionally brilliant, his many wounds were severe, his injury permanent, his pains and disabilities increasing, so that now and for many years his pension has been inadequate to his just claims.

In 1869 Dr. Potter says: "Finds gunshot wound of right forearm, fracturing the ulna, from which several pieces of bone have exfoliated, and injuring both the ulna and radial nerve, causing loss of sensation in part of finger and impairing motions of forearm and hand; also a wound of right thigh, through its middle; also wound of thorax, 1 inch to left of spinal column. Disability total; permanent."

In 1873, an examining surgeon in New York city, Thomas Franklin, says: "About 2½ inches of right ulna has been resected; hand is cold and clammy; complete ankylosis of the wrist joint."

In 1886, Dr. J. E. Dexter, late medical inspector Third Army Corps, states:

"WASHINGTON, D. C., June 23, 1886.

"I knew General Egan when he first entered the military service of the United States, being at that time the assistant surgeon of his regiment. He was then a man in the enjoyment of perfect health. None more active and enthusiastic. I well knew of his gallantry on the field. His record, as it appears in the War Department, does him but partial justice.

"General Egan is at present under my treatment, and I can state that his condition is unqualifiably deplorable, requiring the regular attendance of another person, or a physician, all the result of wounds received and exposure incident to his military life.

"J. E. DEXTER, M. D.,

"Late Medical Inspector, Third Army Corps."

The following certificate of General Hancock was given January 30, 1869:

"Thomas W. Egan was a colonel, brigadier-general, and brevet major-general in my command, and is, as I am informed, an applicant for an invalid pension; that he was honorably discharged January 15, 1866, by reason of his services being no longer required, he also tendering his resignation.

"And I further certify that the said Thomas W. Egan was wounded June 16, 1864, near the Avery House, in front of Petersburg, Va., by being struck over the left kidney with a piece of shell, from the effect of which he fell from his horse and was carried from the field.

"He was also wounded November 14, 1864, on the picket line of my command in front of Petersburg, Va., being struck by a minie-ball, which passed through his right forearm. That at both of these times he was in the line of his duty commanding a brigade of my command. And that the said Thomas W. Egan was in perfectly good health and not suffering from any wound or disability when he entered the service."

The following is a brief statement of the military history and indorsements of General Egan:

"General Thomas W. Egan entered the service in April, 1861, as quartermaster of the "Constitution Guard," afterward known as the "Mozart Regiment" and "Fortieth New York Volunteers." The work of subsisting, clothing, arming, and equipping the regiment fell upon him. On its completion, June 14, 1861, he was commissioned and mustered in as lieutenant-colonel.

"He was in charge of the fatigue parties during the entire siege of Yorktown, Va., they averaging ten thousand men per day. Their supervision demanded constant personal risk and superhuman exertion. For several weeks he passed twenty hours per day in the trenches.

"The gross misconduct of the colonel at Fair Oaks, Va., on May 31, 1862, compelled Egan to place him under arrest and assume command of the regiment. His (Egan's) action was fully approved by his superiors, and his subsequent gallantry in the fight was conspicuous. He was commissioned and mustered in as colonel June 5, 1862, commanding the regiment in the battles of Robinson's Field, Savage Station, Charles City, Cross Roads, Malvern Hill, Second Bull Run, Chantilly, Chancellorsville, Gettysburg, Mine Run, Wilderness, and Ny River. He commanded the brigade in the battles of Spotsylvania Court-House, North Anna River (Taylor's Bridge), Cold Harbor, and Petersburg.

"He was wounded at Gettysburg and had two horses killed under him. Scorning to dismount under fire, he always rode into action, and lost eight horses in all.

"He was wounded again at Petersburg, June 16, 1864, and compelled to retire from the field for about two months. This wound was near the spine, and caused a progressive paralysis of the lower limbs.

"On September 3, 1864, he was promoted to brigadier-general. Secretary Stanton handed him his commission in person, accompanying it with passionate encomiums on his military services. He (Egan) was placed in command of the second brigade, second division, Second Army Corps, then in front of Petersburg. He pressed the siege works in his front with his accustomed vigor and address. At the battle of the Boydton Plank Road, October 27, 1864, he commanded the division, consisting of four brigades, with consummate skill and courage, saving the day and converting an impending disaster into a brilliant victory. He was brevetted major-general for his services on that day. He was to have had the full rank, but there was no vacancy.

"This was his last battle, for on November 14, 1864, he was almost fatally wounded in front of Petersburg. On his partial recovery in March, 1865, he was sent to the Shenandoah Valley at General Hancock's personal request and commanded the provisional division, Army of the Shenandoah. The brigades were commanded by Generals McCook, McKibbin, Banning, Fisher, Raum, and others. The command was under marching orders for General Lee's rear when the news of his surrender and the assassination of the President arrived.

"Egan was held in service until January 15, 1866, the administration expecting a conflict with the Maximilian empire in Mexico, but Bazaine's departure averted the necessity, and Egan was honorably mustered out at his own request.

"He never went through an action without winning the unstinted praise of his superiors and the admiration of his associates and subordinates.

"A single company of his original regiment had forty men killed in battle. This proportion was not greater than that of the whole regiment.

"His gallantry was not greater than his humanity to the enemy, and his ungrudging kindness to such families as the fortunes of war threw within his lines was proverbial.

"His testimonials were written by such men as Lincoln, Stanton, Heintzelman, Sedgwick, Porter, McClellan, Pope, Hancock, Kearny, Birney, Sickles, Berry, Ward, Meade, Hooker, and Grant. Copies of some of them are appended.

THOMAS W. EGAN.

"His wounds have rendered his right arm useless, and partly paralyzed his lower limbs. For two years he has been under the constant care of nurses and physicians. His present pension is wholly insufficient for his support, and he is and always will be unfit for work of any kind."

HEADQUARTERS MILITARY DIVISION ATLANTIC,  
Philadelphia, June 29, 1866.

SIR: I take great pleasure in bearing testimony to the good conduct and meritorious services of General Egan whilst under my command in the Army of the Potomac. He was particularly distinguished for his gallantry at the battle of Hatcher's Run, October 27, 1864, where his good conduct was so conspicuous that at my urgent solicitation he was brevetted a major-general of volunteers.

Very respectfully, your obedient servant,

GEO. G. MEADE,  
Maj. Gen., U. S. A.

To his Excellency ANDREW JOHNSON,  
President United States.

General Egan served with the Army of the Potomac during all the time I was with it, and I believe from the beginning of the rebellion.

His military record is of the first order, he having risen by merit from lieutenant-colonel to brigadier and brevet major-general during the war.

U. S. GRANT, Lieutenant-General.

JULY 24, 1866.

HEADQUARTERS THIRD DIVISION, SECOND CORPS, July 8, 1864.

COLONEL: I have the honor to state, in reply to circular from headquarters Second Army Corps of this date, that I have no recommendation to make, except in the case of Col. Thomas W. Egan, Fortieth New York Volunteers, whom I have already recommended for his gallant conduct, throughout this campaign, particularly at the Wilderness, Spotsylvania, North Anna, and before Petersburg.

Colonel Egan was first brought to my attention at the battle of Fair Oaks. On that occasion I sent for his regiment—Fortieth New York, of which he was lieutenant-colonel—to come to the front. The colonel (Riley) hesitated. Egan, pronouncing him drunk, placed him in close arrest, took command, and reported with his regiment.

At the battles of Glendale, Malvern, and Bull Run his conduct elicited the strongest commendations of myself (his brigadier commander) and of Major-General Kearny, the division commander. In the three battles his conduct was the most distinguished. At the battle of Chantilly, upon the rout of Stevens's division, his regiment (Fortieth New York) under his command held the enemy in check until our line could be re-established, and received my highest praise.

During the battle of Chancellorsville, upon the misbehavior of Colonel —, Egan was placed in command specially of First Brigade (First Division, Third Corps), and again received the warmest encomiums on his energy and gallantry. At Gettysburg, when the enemy was pressing Ward's brigade, who reported himself in the last extremities, I sent Egan to charge with the Fortieth. He led his regiment, and succeeded in repulsing three times his number in a *bona fide* bayonet charge. My staff officer (Capt. James C. Briscoe) reported it to me as the most brilliant affair of the day.

At Kelly's Ford, November 9, 1863, I selected Egan's regiment to storm the enemy's rifle-pits by wading the river. He was entirely successful.

At Payne's farm, November 27, 1863, in the engagement of the Third Corps, his regiment received my warmest thanks.

During the winter of 1863, under his personal attention, his regiment was not surpassed in its discipline, complete equipment, and soldierly bearing.

On the 5th and 6th of May, 1864, at the Wilderness, his conduct was admirable, and he was selected to command the rear guard, which he did with great address.

On the 12th of May (Spotsylvania) he commanded the brigade, and during that day and all of this campaign, until he was wounded in storming the enemy's works at Petersburg, his conduct met my warmest approval. I was always sure of a warm and hearty co-operation from him.

I have frequently recommended him for promotion. He is one of the oldest colonels in the volunteer service, and his term has expired. He has ever been an active, "healthy," gallant soldier—always at the head of his command.

I earnestly recommend his promotion, to date from the storming of the enemy's works at Taylor's bridge, North Anna River, May 26, 1864.

I have no one in my command who has so well earned promotion. The gallantry and providential escapes of this officer are proverbial in my division. I trust that this officer will be promoted and assigned to my command.

I am, colonel, very respectfully, your obedient servant.

D. B. BIRNEY,  
Major-General Volunteers.

Lieut. Col. F. A. WALKER,  
Assistant Adjutant-General Second Army Corps:

[General Hancock's indorsement.]

HEADQUARTERS, SECOND ARMY CORPS,  
Near Petersburg, Va., July 15, 1864.

GENERAL: I have the honor to recommend the following officers of the Second Army Corps for promotion to the rank of brigadier-general for distinguished services. \* \* \* Col. T. W. Egan, Fortieth New York Volunteers, for gallant and meritorious conduct while in command of a brigade, to date May 26, 1864.

WINFIELD S. HANCOCK,  
Major-General, Commanding.

[General Meade's indorsement.]

HEADQUARTERS ARMY OF THE POTOMAC, July 20, 1864.

Respectfully forwarded approved.

GEO. G. MEADE,  
Major-General, Commanding.

[General Grant's indorsement to General Birney's letter.]

HEADQUARTERS ARMIES OF THE UNITED STATES,  
City Point, Va., July 22, 1863.

Respectfully forwarded approved, with the remark that the officer herein recommended is worthy, meritorious, and deserving of promotion, or to fill any vacancy that may exist.

U. S. GRANT, Lieutenant-General, &c.

[President Lincoln's indorsement.]

This is a very meritorious case for appointment, which should be made at the earliest opportunity.

AUGUST 20, 1863.

A. LINCOLN.

Extracts from reports of battles and operations in which General Hancock gave General Egan honorable mention.

[Second epoch—Wilderness.]

A strong picket line, under command of Colonel (now Brevet Major-General) Thomas W. Egan, Fortieth New York Volunteers, remained out in front of our line of battle, along the Brock road, to cover the departure of my troops from that position.

[Third epoch—North Anna.]

Egan's brigade, led gallantly by its commander, charged over an open field, several hundred yards in breadth, which ascended sharply towards the enemy's position, carrying the intrenchments, and driving the enemy pell-mell across the stream, with considerable loss to them. I have seldom witnessed such gallantry and spirit as the brigade of Egan displayed in the assault upon the enemy's works which covered the wooden bridge over the North Anna.

[Fifth epoch—Petersburg.]

During this first advance on the morning of the 16th, Egan's brigade of Birney's division made a spirited attack upon the enemy, who held a small redoubt on Birney's left, which was carried by Egan in his usual intrepid manner. \* \* \* The following officer is entitled to my thanks for his distinguished and valuable services: Colonel Egan, commanding First Brigade, Third Division, Second Corps.

[Boydton Road.—Hatcher's Run, October 27, 1864.]

\* \* \* The march was somewhat delayed by obstructions in the road, but the head of Egan's column reached Hatcher's Run very soon after daylight, and Egan at once made his arrangements to force the crossing. The enemy were posted in a rifle-pit on the opposite bank. The approaches were difficult, trees having been filled in the stream, which was waist deep, above and below the ford.

Smythe's brigade was deployed in the first line, and went forward in gallant style, carrying the works with a loss of about fifty, including Lieutenant-Colonel Spalter, Fourth Ohio, killed. Egan then moved by the nearest road to Dabney's Mill.

Here the enemy, under A. P. Hill, charged heavily, forcing their way between Egan's division and Mott's, and capturing a section of Metcalf's battery. Egan formed his men into an irregular square, covering one front with a heavy skirmish line. He was now entirely isolated, but causing the brigade forming the front nearest Mott to face by the rear rank, and execute a "left wheel," he closed the gap and cut off a large body of the enemy.

At the first sound of this attack I sent Major (now Brigadier-General) Mitchell, my senior aid, to General Egan, with orders to desist from his own assault and to face his command to the rear and attack the enemy with his whole command. When Major Mitchell reached General Egan, he found that the general, with the instinct of a true soldier, was already in motion to attack the force in his rear.

General Egan had perhaps an unusual opportunity for distinguishing himself and he availed himself of it to the utmost, materially to our success. He has been recommended for the appointment of brevet major-general of volunteers for his distinguished service and marked gallantry on this occasion. \* \* \*

W. S. HANCOCK,

Major-General, Commanding Second Corps.

[Hatcher's Run.—Meade.]

\* \* \* I have no hesitation in attributing our success and freedom from disaster to the personal exertions of Major-General Hancock and the conspicuous gallantry of Brigadier-General Egan.

GEO. G. MEADE, Major-General, U. S. A.

[Fair Oaks.—General Ward.]

\* \* \* I can not find words to express my admiration of the conduct of both officers and men in the discharge of their several duties. I would beg leave to mention as having conspicuously distinguished himself Col. Thomas W. Egan, Fortieth New York Volunteers. Colonel Egan was "superb." \* \* \*

J. H. HOBART WARD,

Brigadier-General.

[Robinson's Field, June 25, 1862.—General Birney.]

I take pleasure in speaking of the high state of discipline manifested by the Fortieth New York Volunteers, Colonel Egan. \* \* \*

D. B. BIRNEY, Brigadier-General.

[Williamsburg.—General Birney.]

\* \* \* The left wing of the Fortieth New York was sent to take the enemy

in the rear. The right wing marched steadily in the front and drove the enemy, after a furious contest, from the woods. The Fortieth behaved nobly, and maintained their position.

[Extract from letter of General Porter.—Yorktown.]

WASHINGTON, D. C., December 16, 1862.

I take great pleasure in bearing testimony to the energy, ability, and excellent judgment of Colonel Egan, Fortieth New York Volunteers, as exhibited by him while under my direction during the siege of Yorktown. He always foresaw what was required and did it without prompting. By his exertions the preparations for the opening of the siege batteries were hastened and prepared.

F. J. PORTER, Major-General.

[“Seven Days' Battle.”—General Birney.]

\* \* \* On the 1st of July, at Malvern Hill, my brigade was again ordered to the front to meet the advancing enemy. This was done in good order, with full ranks and determined spirits. We held the front line during a furious cannonade and intrenched our whole front under fire. We held the position until 2 a. m. July 2 (having been exposed to nine hours' cannonade unsheltered), and then marched to Harrison's Landing.

[Second Bull Run.—Kearny.]

\* \* \* The Fortieth New York Volunteers, under the brave Colonel Egan suffered the most.

P. KEARNY, Major-General.

[Chantilly.—Birney.]

\* \* \* I immediately ordered forward the Fortieth New York Regiment, and it gallantly advanced, and was soon in active conflict. This regiment held the enemy, and sustained unflinchingly the most murderous fire from a superior force.

D. B. BIRNEY,

Brigadier-General, Commanding Division.

HEADQUARTERS THIRD BRIGADE,  
FIRST DIVISION, THIRD CORPS,  
Camp near Falmouth, Va., November 24, 1862.

SIR: The friends of Colonel Egan, of the Fortieth New York Volunteers, have applied to me for a letter recommending that officer as a proper person for promotion. I have known Colonel Egan for a year or more. He was always regarded as a most devoted officer. He acted with great gallantry at Williamsburg and Fair Oaks, after which he was made a full colonel. He led his regiment at Fair Oaks, where it did most gallant service. At the "Orchards," Glendale, and Malvern Hill his conduct was no less conspicuous. Under General Pope he did good service, particularly at Chantilly. General Kearny regarded Colonel Egan as one of his best fighting colonels, and as one of his most reliable officers. I do not know of a more gallant officer than Colonel Egan, and no one that I would more like to have in my command, were it admissible.

Respectfully, your obedient servant,

H. G. BERRY,  
Brigadier-General Volunteers.

ABRAHAM LINCOLN,  
President of the United States.

[General Heintzelman's indorsement and others.]

HEADQUARTERS DEFENSES OF WASHINGTON, December 13, 1862.

The Fortieth New York is one of the most distinguished regiments I have had under my command. Colonel Egan was with it in all the battles, and has always conducted himself with great gallantry and good judgment, and I cheerfully recommend him to the favorable consideration of the President.

S. P. HEINTZELMAN, Major-General.

Colonel Egan was under my command as colonel of Fortieth New York Volunteers for six months. I always regarded him as a faithful, gallant officer, always doing his duty with zeal and ability.

JOHN SEDGWICK,  
Major-General Volunteers.

WASHINGTON, D. C., December 24, 1862.

I most cordially and heartily indorse the within recommendation. The Fortieth New York belonged to the division of the late lamented Kearny, and rendered the most distinguished and gallant service under my command in the battles at Bull Run and Chantilly. Colonel Egan was regarded by General Kearny as one of his most distinguished and capable officers, and he deserves and should receive promotion.

I most earnestly present his claims to the Government. It will be well for the interests of the Government, as well as a proper tribute of gratitude from the Government, that Colonel Egan should be appointed brigadier-general.

JOHN POPE, Major-General.

I cheerfully concur in all that is said of Colonel Egan by this commanding general, and desire that he be promoted.

JOSEPH HOOKER,  
Major-General Commanding.

[Chancellorsville.—Birney.]

COLONEL: \* \* \* Among the colonels under my immediate eye in the movement, Col. Thomas W. Egan was distinguished for his energy, dash, and enthusiasm. I would call the attention of the major-general commanding the corps to this officer, and would recommend his promotion. \* \* \*

I am, your obedient servant,

D. B. BIRNEY,  
Brigadier-General Commanding Division.

Lieut. Col. O. H. HART,  
Assistant Adjutant-General, Third Corps.

[Chancellorsville.—Sickles.]

I commend to the particular notice of the general-in-chief the high praise bestowed by General Birney upon Col. Thomas W. Egan (Fortieth New York) for the energy and dash which he threw into this attack. All our guns and caissons and a portion of Whipple's mule train were recovered, besides two pieces of the enemy's artillery and three caissons captured.

D. E. SICKLES, Major-General Volunteers.

[Gettysburg.—Ward.]

\* \* \* The valuable services rendered by Col. T. W. Egan and his noble

regiment (Fortieth New York) at an opportune moment can not be overestimated. Their steadiness and valor were not unknown to me, I having commanded them on other occasions. They came to me at the right time, and well did they perform their duty.

J. H. HOBART WARD, *Brigadier-General.*

[Gettysburg.—Birney.]

\*\*\* The Fortieth New York, Col. Thomas W. Egan, was sent by me to strengthen Ward's line, and, led by its gallant colonel, charged the enemy and drove him back from his advanced point. \*\*\*

D. B. BIRNEY.

*Major-General, Commanding First Division, Third Corps.*

[Second Bull Run.—Robinson.]

\*\*\* General Birney turned over to me his Fortieth New York Regiment. These troops were deployed to the right and left of the railroad, and pushed forward. Our men now gained steadily on the enemy, and drove him before them until he brought up fresh masses of troops. Then, with ammunition nearly expended, we withdrew to our second position. Our loss was severe, embracing some of our best officers.

My thanks are due to Col. Thomas W. Egan, Fortieth New York Volunteers, for valuable services.

JOHN C. ROBINSON,  
*Brigadier-General Volunteers.*

[Orange Grove and Kelly's Ford, November, 1863.—Birney.]

\*\*\* General Carr now reporting his center hard pressed, I moved forward the Third Brigade (Egan), and relieved his center line. They were driven back, and the ridge firmly held by Egan. Before daylight on the 30th November, I received orders from General French to be prepared to assault the enemy in my front, crossing Mine Run.

The Third Brigade (Egan) was most hotly engaged, and acquitted itself most gallantly. Colonel Egan exhibited much skill in handling the troops.

D. B. BIRNEY,  
*Major-General Volunteers.*

[Mahone's report.—Extract.]

The most prominent action in which Mahone was to emulate the thunderbolt was at Hatcher's Run, on the 27th of October, 1864, when Grant operated to turn Lee's extreme right in order to gain possession of the South Side Railroad. The main movement was entrusted to the Second Corps, Hancock's; subsequently the Second was supported by the Fifth, Warren's. The latter was ordered up to form a connection between Hancock's right and the left of the Ninth (Parke's), who was to engage the attention of the rebel troops in the front while Hancock was making the turning maneuver.

Hatcher's Run is a marshy stream, flowing from east to west through thick forests and dense underbrush. Its headwaters are near Zion and Corinth churches, on the South Side Railroad, about 15 miles east-southeast of Petersburg, and it struck the extreme left of the Union lines near Armstrong's, on the Duncan road (Grant's map), about 7 miles of the "Cockade City."

It would be difficult to conceive a more ugly country to operate in. Our maps were defective; brigades and regiments went astray; staff officers sent to disentangle the "Toho Bohn" became lost themselves in the maze; a driving rain and fog made bad worse; night came on, and thus, in an unknown region, "darkness which could be felt" converted the termination of this military movement into a literal groping in the dark. This was one of our disasters, and had Mahone been adequately supported it is impossible to estimate what might have been the extent of our losses. On our side it was redeemed by General Egan, commanding Gibbon's division of the Second Corps. Mahone pays the highest compliments to the ability and intrepidity displayed. Praise from such a man is indeed praise, and Egan deserved it.

While Heth was to head us off at the bridge, at the Burgess Mill Dam, and attack vigorously, and Hampton was to harass us, Mahone, as usual, made a turning march through the woods, and, after a detour, formed his line in their edge, charged across an open field, and struck Egan on the right flank. Egan's division, which was posted on a clearing south of the run, with his guns on an elevation to the left of the Boydton road, made a conversion, wheeled around his guns, and gave Mahone such a stunning reception as finally, after a hard fight, drove him back to the shelter of the forest.

Mahone says the scene was beautiful in the dimness of the mist, and the thickening darkness through which the blaze of the musketry shone like lightning against a black cloud. While he was performing according to his wont, he appears to confine his praise to that officer, Hampton, who did his part well. There seems to have been as little co-operation in our own Army, and the glory of this involved engagement belongs to Egan and Mahone. Our losses were great, the result a failure, and this, as on so many other occasions, was due to that little man whose name is hardly known in the North, and yet was one of our most dangerous and indomitable adversaries. He realized the idea of the "hornet" of the Scripture in the spitefulness and persistency of his attacks. He was a perfect military yellow-jacket wasp.

Historical Magazine, January to June, 1870.  
Vol. VII, 2d Series, 17, Rebellion Record.

CITY POINT, October 23, 1864.

To E. M. STANTON, *Secretary of War:*

The attack on General Hancock, now that a report has been received, proves to be a decided success. He repulsed the enemy and remained in his position, holding possession of the field until midnight, when he commenced withdrawing. Orders had been given for the withdrawal of the Second Corps before the attack was made. We lost no prisoners except the usual stragglers, who are always picked up. Our captures for the day on the South Side, 910.

The rebel General Dering is reported killed. General Meade in his report says: "I am induced to believe the success of the operation, which was most decided, was mainly due to the personal exertions of Major-General Hancock, and the conspicuous gallantry of Brig. Gen. Thomas W. Egan."

U. S. GRANT, *Lieutenant-General.*

MY DEAR GENERAL: I regret my condition is such at this time as to be totally unfit for the task I have undertaken. My mind will not obey my wish, and it is very difficult for me to connect two words; still I feel very anxious to say something in your favor where so much is due. I, who was an eye-witness of your conduct on that memorable day, surely ought to be able to say something, but in truth I am not the man to do it justice even at my best. One thing I have kept in view, namely, a strict regard for truth. I have not gone beyond the mark. Much more might be said without infringing on the truth, but if I were to write as I think and feel it would sound like a romance.

Yours, in haste,

J. G. SMITH.

*Stray shots from Gettysburg.*

The closing conflict of the Fortieth New York Volunteer Regiment and Fourth New York Independent Battery at "Devil's Den." \*\*\*

We had been swept from the crest of "Devil's Den," leaving three of our guns behind, and had opened with the remaining three from a position about 75 yards nearer Little Round Top. Our fire was directed at the enemy there stationed at or near Plum Run Gorge. We were trying to keep up the character of a fight, hoping for help, and fearing the enemy were about to charge us, in which event our weakness would be discovered, and then our bold front would avail us nothing. All that men could do the artilleryists of the battery were doing. If the enemy would stand off and fight us the battle would last as long as there was a man left to load a gun, but when it came to a charge we must fall back or yield. During this critical moment the fate of the Round Top hung in the balance; five minutes more and the battery must retire or fall into the enemy's hands. The Round Tops were still defenseless. General Warner, who had gone in search of troops for the purpose of defending this important position, had not yet returned. Time was precious. The nation was greatly in need of men at this particular moment, and at this point of the Federal line.

Brave men had fought over this ground but a few minutes before, and left many of their comrades to tell the tale of the unequal contest. Still the harvest was incomplete, more human grain must be garnered before the demon of destruction could be appeased. It was coming. The Fortieth New York Volunteer Regiment, led by the indomitable Col. Tom W. Egan, has heard the roar of cannon, and, without waiting for orders, following the true instincts of a brave and gallant soldier, noble Tom Egan moved at a double quick with his band of heroes and was soon charging through the battery. A new lease of life was given us; in fact, this timely assistance enabled the battery to renew the contest, and with the aid of the Fortieth New York impose a longer delay of half an hour upon Hood's troops, thereby giving the approaching troops under Vincent O'Rourke and others just sufficient time to scale the summit of Little Round Top, together with Hazlett's Battery, and after a short, sharp struggle repulse the foe.

The importance of Colonel Egan's intelligent and soldierly manner of moving his command to a point of our line where he could do the most good can not be estimated. His practiced ear, ever on the alert for the sound of the enemy's guns, when confronted by the foe, led him to discern where he was most needed. As soon as he arrived he quickly divined the enemy's intentions and made such disposition of his troops as to best lead, if not entirely thwart his purpose. If, as has been said, the enemy lost Little Round Top by less than five minutes, what can be said of Col. Tom Egan's timely arrival, and the importance of his fight at Devil's Den? May it not truly be said of him, "He deserves well of his country?" If the American people had seen this fearless soldier in the battle at "Devil's Den," July 2, 1863, his name would be a household word at every fire-side "in the land of the free and the home of the brave."

J. G. SMITH.

*Late Captain Fourth New York Independent Battery, Third Corps.*

Reference is also called to the following report:  
Report of Gettysburg, page 498, General Ward's report.  
Page 514, de Trobriand says that Colonel Egan, Fortieth New York Volunteers, has had his horse killed under him.

Pages 517, 518, official report Fortieth New York Volunteers, Colonel Egan commanding.

General A. A. Humphreys' "Virginia Campaign, 1864 and 1865."  
Page 160, North Anna. "Egan's and Pierce's brigades had to advance several hundred yards over open ground, ascending to the river bank," &c.

Page 216, assault on Petersburg, June 16, 1864.  
Page 295, Boydton Plank Road (pages 298, 299, 301, 302), quotes from Hancock's report.

These services are also referred to by William Swinton in his Campaigns of the Army of the Potomac, published by Charles B. Richardson, New York, 1866.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE.

Washington, D. C., June 21, 1885.

Statement of the military service of Thomas W. Egan, late of the United States volunteer army, compiled from the records of this office:

He entered the service as lieutenant-colonel, Fortieth New York Infantry, July 1, 1861, and was promoted colonel June 5, 1862.

He served with his regiment in the Army of the Potomac to June, 1862, and commanded the regiment in November 26, 1862; was on leave to January, 1863; commanded the regiment to November 22, 1863; the Third Brigade, First Division, Third Corps, to December 30, 1863; the regiment to February 22, 1864; the Third Brigade, First Division, Third Corps, to March 18, 1864; the regiment to April 1, 1864; the First Brigade, Third Division, Second Corps, to April 8, 1864; the regiment to May 12, 1864, and the First Brigade, Third Division, Second Corps, to June 16, 1864, when wounded in battle before Petersburg, Va.; was absent on account of wounds to September 5, 1864, upon which date he was honorably mustered out on expiration of term of service.

He was appointed brigadier-general United States Volunteers, September 3, 1864.

He received the brevet of major-general United States Volunteers, October 27, 1864, for gallant and distinguished services at the battle of Boydton Plank Road, Virginia.

He commanded the First Brigade, Second Division, Second Corps, Army of the Potomac, from September 27 to October 9, 1864; the Second Division to November 1, 1864, and the First Brigade, Second Division, Second Corps, to November 14, 1864, when wounded in action before Petersburg, Va.; was absent on account of wounds to March 18, 1865; commanded the Third Provisional Division, Army of the Shenandoah, to July 18, 1865, and the Division of Harper's Ferry to August, 1865; was awaiting orders to January 15, 1866, upon which date he was honorably mustered out of service.

O. D. GREENE,  
*Assistant Adjutant-General.*

The present bill provides for arrears of proposed increase of pension. As this is in violation of the well-known policy of Congress, the committee can not recommend that such, but, with an amendment striking out the proposition for increase, they recommend that the bill do pass, adding as a further amendment the words "in lieu of any pension he is now receiving."

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MOSES B. WALKER.

Mr. SHERMAN. The next case on the Calendar is reported from the Committee on Military Affairs. It is to pay a small sum due to an officer, a perfectly clear case, already passed by the House of Representatives and reported by the Military Committee. I ask unanimous consent to proceed to its consideration; it is House bill No. 1802. I ask it now because I can not always attend to these matters.

Mr. SAWYER. I hope it will be passed without reading the report. By unanimous consent, the Senate, as in Committee of the Whole,

proceeded to consider the bill (H. R. 1882) for the relief of Moses B. Walker. It proposes to direct the Secretary of the Treasury to enter in the records of the Treasury Department the settlement of \$550 which is charged in the accounts of Moses B. Walker, late colonel of the Thirty-first Ohio Volunteer Infantry, as of the 30th of September, 1861, for money received by him while in the service of the United States.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SUSAN HAWES.

The bill (H. R. 7234) granting a pension to Susan Hawes was considered as in Committee of the Whole. It proposes to place the name of Susan Hawes on the pension-roll, she being the mother of Jeremiah H. Hawes, late a private in Howe's battery, Company G, Fourth Artillery, United States Army.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ROBERT B. KIRKPATRICK.

The bill (H. R. 7244) granting a pension to Robert B. Kirkpatrick, was considered as in Committee of the Whole. It proposes to place the name of Robert B. Kirkpatrick, late a private in Company E, Eighty-ninth Ohio Infantry Volunteers, on the pension-roll.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS WALSH.

The bill (H. R. 8481) granting a pension to Thomas Walsh was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Thomas Walsh, late of Company F, Seventy-fourth Regiment New York Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ABRAHAM POINTS.

The bill (H. R. 8556) granting a pension to Abraham Points was considered as in Committee of the Whole. It proposes to place the name of Abraham Points, late a private in Company C, Forty-second Regiment Missouri Infantry, and now a resident of Allerton, Iowa, on the pension-roll.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CAPT. JOHN F. MORRIS.

The bill (H. R. 9052) granting an increase of pension to Capt. John F. Morris was considered as in Committee of the Whole. It proposes to increase the pension of John F. Morris, late captain of Company B, Eighty-third Regiment Pennsylvania Volunteers, to \$72 per month.

Mr. CAMDEN. Let the report in that case be read.

The PRESIDING OFFICER. The report will be read.

The Secretary read the following report, submitted by Mr. SAWYER July 22, 1886:

The Committee on Pensions, to whom was referred the bill (H. R. 9052) granting a pension to John F. Morris, have carefully examined the same, and report, recommending the passage of the bill. The subjoined House report correctly states the facts in the case.

Capt. John F. Morris enlisted August 25, 1861, in Company B of the Eighty-third Regiment Pennsylvania Volunteers, and was discharged September 15, 1862. In the battle of Gaines's Mills, June 27, 1862, he received three wounds, one in the hip, one in the side, and a shell wound in the lower portion of his spine.

Soldier was granted a pension of \$20 per month from September 15, 1862, upon the report of the examining surgeon, John T. Ray, dated April 29, 1863, which is as follows:

"Captain Morris was wounded in the back by a musket ball, which has never been extracted; also in the side and lower portion of the spine by a fragment of shell. This wound has produced paralysis of left leg, rendering him unable to walk without the assistance of crutches, and then only for a short distance, accompanied by pain and a shrunken condition of the muscles of the thigh and leg."

His pension was increased, as his disability became greater, as follows: May 12, 1882, to \$24 per month; by act of March 3, 1883, to \$30 per month; and to \$50 per month March 6, 1885, upon the report of the examining surgeon, dated June 14, 1882, which states:

"I find shell wound over the lower part of sacrum, also over the right nates; scar of minie-ball in front of trochanter major on right side, also on about opposite the lower dorsal vertebra and to the right of spine 1 inch; shell wound over sacrum very tender and painful; it also extends to foot of left side, especially along the course of sciatic nerve; left limb is atrophied, is 2 inches less in circumference than right around thigh, and 1½ inches less above knee; the temperature is 2 degrees less than right. First and second toes were amputated at the metatarsophalangeal articulation last August on account of gangrene. Foot is oedematous; general health very poor, and he is now obliged to take 4 grains of morphia per day to keep down the pain, and he requires an attendant most of the time. He came very near dying this spring; is a little better now. Since last sickness he has a feeling of suffocation at times, or dyspnoea; the increased disability has not been caused by any vicious or imprudent habits. Disability is much greater than if whole limb had been amputated and was without pain. I find his disability to entitle him to total first-grade degree of disability."

At a special examination held March 8, 1883, at Meadville, Pa., the board of examining surgeons reported:

"We find wounds by shell and ball, the ball passing through or rather between the eleventh and twelfth ribs. This ball has never been extracted. As it passed very near the spine, it evidently has affected spinal and sciatic nerves on left side. We find atrophy of left hip, thigh, and leg, with paralysis of same. The degree of vitality has been so low that great and second toes have had to be amputated by reason of gangrene. Captain Morris is and has long been known to each member of this board.

"We can certify to his intense suffering day and night for years past, his pains

only relieved by large subcutaneous injections of morphia, with all supplemental means that could be devised by his physicians. Captain Morris is entirely unable without constant attendance to care for himself, and requires at all times watchful care, from paralysis of the lower portion of the bowels. They are never moved except by use of injections. We would therefore recommend in this case an increase to \$50 a month."

Your committee here append the petition of soldier asking the increase by Congress, together with the affidavits of his attending physicians; also a petition from his comrades.

To the honorable Members of the House of Representatives:

Your petitioner, Capt. John F. Morris, of Company B, Eighty-third Pennsylvania Volunteers, would state that he enlisted in the service of the United States August 25, A. D. 1861. He served with the Army of the Potomac during all its campaigns up to the battle of Gaines's Mills, June 27, 1862. In that conflict he received three wounds—one in the hip, one in the side, and a shell wound in the lower portion of his spine; the latter caused paralysis of the lower limbs, while the ball from the gunshot still remained lodged under the spine, producing pains to such an extent that it impaired his eyesight to such a degree that it is impossible for him to read or write or perform any duties whatever. He has been bedridden for months, and now gropes his way along on crutches.

His sufferings are intense, relieved only by hypodermics of morphia injected in his limbs, and with no hope for any relief, as he is growing worse, and at times even morphia does not relieve him. He is in need, as he can not support his family, has exhausted means in medical attendance that he had accumulated in his younger days. He made application for an increase some years ago; it was made from \$20 to \$24; then from that to \$30, and, as his disabilities increased, to \$50 a month. This does not cover the medical attendance and incidentals consequent upon his constant illness and suffering.

JOHN F. MORRIS.

STATE OF PENNSYLVANIA,  
County of Crawford, ss:

Personally came before me, clerk of the court in and for the county aforesaid, John F. Morris, late captain of Company B, Eighty-third Pennsylvania Volunteers, who, being duly sworn, says that the above and foregoing statement is just and true to the best of his knowledge and belief. And I hereby certify that I have no interest direct or indirect in the prosecution of this claim.

Witness my hand and official seal this 20th day of May, A. D., 1886.

[SEAL.]

A. B. EDSON,

Proth'y and Clerk of Court of Common Pleas.

MEADVILLE, PA., May 20, 1886.

I have known intimately John F. Morris, formerly captain Company B, Eighty-third Regiment Pennsylvania Volunteers, for nearly thirty years, and have been his physician for nearly twenty years. Have attended him professionally for gunshot wound received in the service of United States. The injury was to his spine and left leg. Left sciatic nerves diseased, consequently circulation very feeble; so much so that two toes had to be removed for gangrene. The pain resulting from this condition has been the most intense I have ever known. After these long years of suffering his general health has given way, and now he is a physical wreck, unable to care for himself in many ways, and in my opinion requires and should have a constant attendant.

I have been in active practice of medicine and surgery for twenty-four years. Have no personal interest in claim for his pension.

T. B. LASHELE, M. D.

Sworn to before me this 20th day of May, 1886.

[SEAL.]

JAMES GRAHAM, Ck.

Affidavit of physician or surgeon.

STATE OF PENNSYLVANIA,  
County of Philadelphia, ss:

In the pension claim of Capt. John F. Morris, late of Eighty-third Regiment Pennsylvania Volunteers, personally came before me, a deputy prothonotary, clerk, in and for the aforesaid county and State, Alf. W. Green, a citizen of Meadville, in the county of Crawford and State of Pennsylvania, whom I believe to be reputable and entitled to credit, and who, being duly sworn, declares in relation to the aforesaid case as follows:

That he is a practicing physician, and that he has been acquainted with said soldier for about thirteen years, and that for that length of time have known the aforesaid Capt. John F. Morris intimately; although not his regular physician, have seen him frequently professionally; he has been to my certain knowledge one of the greatest sufferers I have ever met with, the result of wounds received at Gaines's Mills. He is unable to dress himself, and can only limp around with the aid of a crutch and cane; he is totally unable to perform manual or other labor.

He further declares that he has been a practitioner of medicine for forty years, and that he has no interest, either direct or indirect, in the prosecution of this claim.

ALF. W. GREEN, Late Surgeon P. R.

Sworn to and subscribed before me this 20th day of May, A. D. 1886, and I hereby certify that the affiant is a practicing physician in good professional standing; that the contents of the above declaration, &c., were fully made known unto him before swearing, including the words erased and the words added; and that I have no interest, direct, or indirect, in the prosecution of this claim.

F. H. SMITH, Deputy Prothonotary.

We, the undersigned, members of the Grand Army of the Republic, would respectfully petition the honorable members of the House of Representatives to a special act for the increase of pension for Capt. John F. Morris, of Company B, Eighty-third Regiment of Pennsylvania Volunteers.

We feel that it would be no more than justice to a suffering comrade to grant him the pension he is now applying for.

We subscribe ourselves, respectfully:

Chas. C. Johnson, Thos. A. Stebbins, Chas. W. Lane, S. F. Nelson, C. Van Horne, F. N. Clark, B. F. Smith, J. H. Dickson, R. B. Burns, Sam'l B. Dick, J. D. Gill, E. H. Bernhoft, O. H. Hollister, I. E. Myers, H. H. Davis, S. C. Beach, T. L. Flood, J. W. Cainer, Almond Delamater, H. P. Marley, F. E. Underwood, Wm. Roberts, E. G. Taylor, Lloyd E. Riddle, Benjamin Emerson, John Porter, Frank Shippen, W. P. Porter, A. B. Edson, J. G. Lindeman, John J. Henderson, S. C. McDowell, Sturges T. Dicks, Geo. F. Davenport, H. J. Humes, Geo. A. West, H. E. Wilson, R. Michael, John F. Bruner, M. R. Jenks, F. H. Davis, Robt. Andrews, John Hull.

The evidence as to the condition of this claimant for increase of pension as detailed above has been further supplemented by inquiries made of gentlemen of character whom your committee have consulted concerning this case.

They are therefore fully satisfied that the soldier is suffering as is claimed; that he is practically totally disabled; that he requires the almost constant ministrations of others; and that cost of medicines and medical treatment are a heavy tax upon the pension which he now receives.

They therefore report this bill favorably, with an amendment striking out the words "one hundred" in line 6, and inserting the words "seventy-two," and as thus amended recommend that it do pass.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MRS. ANNA ETHERIDGE HOOKS.

The bill (2774) to provide a pension for Mrs. Anna Etheridge Hooks was considered as in Committee of the Whole.

The Committee on Pensions reported an amendment, in line 5, after the words "rate of," to strike out "fifty and insert "twenty-five;" so as to make the bill read:

*Be it enacted, &c.,* That the Secretary of the Interior be, and he hereby is, authorized and directed to place on the pension-roll the name of Mrs. Anna Etheridge Hooks, at the rate of \$25 per month.

Mr. COCKRELL. Let the report be read in that case.

The PRESIDING OFFICER. The report will be read.

The Secretary read the following report, submitted by Mr. SAWYER July 22, 1886:

The Committee on Pensions, to whom was referred the bill (S. 2774) to provide a pension for Mrs. Anna Etheridge Hooks, have considered the same, and report:

Anna Etheridge, now Mrs. Anna Etheridge Hooks, shows in her petition that she entered the military service of the United States in May, 1861, among the first to respond to her country's call in its hour of need, with the Second Michigan Volunteer Infantry, determined to serve her flag as long and as faithfully as her comrade brothers in every duty which a woman could do. She remained during the entire war with the Second, Third, and Fifth Regiments Michigan troops attached to the Army of the Potomac, returning home with the Fifth Michigan Volunteer Infantry (which was the Third and Fifth consolidated), in July, 1865.

She was in twenty-eight battles, as will appear from a list presented to her when camped near Jeffersonville, Ind., July 5, 1865, in which she shared with her commands the dangers of the field, having two horses shot under her, and the hardships of the camp hospital, under fire, dressing the wounds of the fallen, caring for the dying, and preparing and supplying from the stores in her care the nourishment and stimulants which alone could save the lives of many of our brave men.

During her four years' service she was in every battle in which the Army of the Potomac was engaged, except South Mountain and Antietam, when her division was temporarily detached and left in front of Washington.

She was also one of the few among the meritorious and distinguished non-commissioned officers and privates who received the "Kearny Cross," the division decoration.

She received no compensation whatever during the war for any services, and more than that, expended a considerable amount out of her own funds for expenses in living, clothing, transportation, &c., for which she has never been recompensed in any way.

She is now poor and needy, has never recovered from the results of her long and arduous service, and now asks this recognition of her services, sacrifices, and disabilities incurred during the war.

Your committee report back the bill with a recommendation that the word "fifty," in line 5, be changed to "twenty-five," and with this amendment that the bill do pass.

Mr. COCKRELL. I must have some explanation of that bill. Here is a soldier who served four years as a non-commissioned officer. Why has not the Pension Office granted the pension? The report does not state what capacity she served in or anything about it. I should like to know on what evidence the report is based. The only thing it refers to there is her petition. I should like to know whether there is any other evidence than her petition.

Mr. PALMER. This is one of those few cases that were well known all through the Army of the Potomac. This woman has had one of the most remarkable and dramatic records of any woman that was ever in the Army of the Potomac. At Chancellorsville when the Michigan Eighth, I think it was, were repulsed, she rallied them and led them again to the attack. She was a woman who went on the battlefield in the face of fire. At it appears in the report, two horses were shot under her. The evidence that was put before the committee was too long to print; but, if it had gone into the report, it would have been enough to convince any one that she was entitled to fifty dollars a month instead of twenty-five.

Mr. COCKRELL. Was she enlisted? Was her name on any muster-roll?

Mr. PALMER. Not that I know of.

Mr. COCKRELL. The report says she was a non-commissioned officer.

Mr. SAWYER. I think not.

Mr. PALMER. I think the Senator misapprehended the report.

Mr. COCKRELL. I do not know whether I do or not.

The report says:

She was also one of the few among the meritorious and distinguished non-commissioned officers and privates who received the "Kearny Cross," the division decoration.

I apprehend she was a soldier if she received that.

Mr. PALMER. I imagine that was put in because although she was neither a private nor a commissioned officer, she was regarded as one of the regiment, and she was so endeared to the soldiers that she was called "our Anna."

I hope no levity will be indulged in, for this really is a very dramatic case, and if I could take up the time of the Senate I think I could convince them that she is entitled to \$75 a month.

Mr. COCKRELL. I must have more of an explanation. I am examining the papers; I ask that the case be passed over. I want to see if there is any evidence here besides her own petition, because this report is evidently inaccurate, as it is admitted here on the floor of the Senate. It is stated in the report that she was a non-commissioned officer or a private.

Mr. PALMER. I think it does not follow as a matter of course from the phraseology of the report that she was either a private or a non-commissioned officer, but she was among them. What they call a *vivandière* in the French army might be considered among the privates and non-commissioned officers, but still she would not be either of them, but she was among them.

Mr. SAWYER. That is the idea. The language may be unfortunate.

Mr. PALMER. I think the Senator from Missouri misapprehends the statement. I hope he will make no objection. I know that his kind heart, if he knew the whole case, would permit the bill to go through without objection.

Mr. COCKRELL. If I knew all about the case, perhaps I would; but my trouble is that I want to know about it. I think we can ascertain by an examination of the papers; and if there is any other business that can be transacted, it will take less time than to have these whole documents read. Therefore I ask that it be passed over.

Mr. PALMER. If the Senator insists, I ask that it be passed over informally, not losing its place on the Calendar.

The PRESIDING OFFICER. There being no objection, that order will be made.

ELLEN J. WELCH.

The bill (H. R. 7721) granting a pension to Ellen J. Welch was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Ellen J. Welch, widow of John H. Welch, late of the Third Massachusetts Light Battery Artillery.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GEORGE W. CUTLER.

The bill (H. R. 3551) granting a pension to George W. Cutler, late a private in Company B, Ninth New Hampshire Volunteers, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARGARET S. FAIN.

The bill (H. R. 260) for the relief of Margaret S. Fain was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Margaret S. Fain, widow of William C. Fain, who was killed while recruiting a regiment about April 6, 1864, at Pitman's Ferry, Hope County, Tennessee, and to pay her the pension allowed to the widow of a captain.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN M'GOWAN.

The bill (H. R. 4032) granting a pension to John McGowan was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of John McGowan, late of Company K, Twenty-seventh Massachusetts Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JAMES SAVERCOOL.

The bill (H. R. 6824) granting a pension to James Savercool was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of James Savercool, late of the United States Navy.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LEVI A. CRONKHITE.

The bill (H. R. 8352) for the relief of Levi A. Cronkhite was considered as in Committee of the Whole. It proposes to place the name of Levi A. Cronkhite, late a private in Company E, Eighty-sixth Regiment Indiana Volunteer Infantry, on the pension-roll.

Mr. COCKRELL. Let the report be read.

The PRESIDING OFFICER. The report will be read.

The Secretary read the following report, submitted by Mr. SAWYER July 23, 1886:

The Committee on Pensions, to whom was referred the bill (H. R. 8352) granting a pension to Levi A. Cronkhite, have examined the same, and report:

The report of the House committee is full and conclusive, and the committee believe that the facts fully warrant its approval of this claim. It is adopted, and is as follows:

"Cronkhite served as private of Company E, Eighty-sixth Indiana Volunteers, from August 15, 1862, to June 6, 1865. He applied for pension July 29, 1871, alleging that he contracted measles in November, 1862, in consequence of which he is suffering from disease of eyes. The record of the War Department shows that he was absent, sick, from October, 1862, to February, 1863, but the Surgeon-General reports the absence of the medical records which cover the period of aforesaid treatment.

"Two comrades testify to claimant's sickness after enlistment, but can not now recall the nature of the disease.

"Dr. Asa Bigelow testifies that he treated claimant for measles on November 21 and 24, 1862, also on December 4 and 11, 1862, as shown by his books. Claimant was then at home on furlough.

"Assistant Surgeon Van Vorhis, of claimant's regiment, testifies that, at New Hope Church, May 27, 1864, claimant received an injury to eyes by explosion of shell; was taken to the rear and affiant examined him. Found that dirt and gravel had been thrown with great violence in his face, injuring his eyes very much; remained under treatment for about three weeks, but returned to duty

and suffered with impaired eyesight during remainder of his service. Claimant is now (August, 1882) almost blind in right eye, with vision of left eye much impaired. Affiant does believe that this condition is due to the injury above mentioned.

"Joseph Jones, late surgeon of the regiment, testifies that claimant had an attack of measles after his enlistment; that he took cold while convalescent, which greatly impaired his eye-sight, but continued to do duty until he was stunned and blinded by the explosion of a shell in May, 1864, while in battle, after which he became so disabled in his sight that he was transferred to the Pioneer Corps.

"Medical examination in August, 1881, showed asthenopia, which the examining surgeon states was undoubtedly caused from the effects of measles.

"Doubts as to claimant's soundness before enlistment were thrown in the case by information furnished the office, tending to show that claimant, prior to his enlistment, was slightly near-sighted, and the case was specially examined. The examination was concluded in December last, the case being returned to the Pension Office, with the special examiner's recommendation for admission. In April last claimant was again examined by an oculist, who pronounced the defective vision the result of hypermetropic astigmatism, which is probably congenital. Upon this finding the claim was rejected by the medical referee.

"There may have been some defect in claimant's sight prior to his service, but he was not disqualified in any way to perform military duty until after he suffered from an attack of measles, and still later, when he received a more serious injury to his eyes, as is shown by the unimpeached testimony of both the surgeon and assistant surgeon of the regiment.

"He is now in a deplorable condition, and in the opinion of this committee should receive the benefit of whatever doubt may exist in the case.

"The Commissioner of Pensions, in a recent letter to this committee, says: "The action of rejection was based on the opinion of the medical referee of this Bureau, who was unable, on the testimony on file, to accept that the disease of eyes alleged by claimant was caused by, or due to, his army service. In my opinion it is an equitable case, worthy the consideration and action of your committee."

The bill is herewith reported to the Senate, with a recommendation that it do pass.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### IRENE GOOGINS.

The bill (H. R. 8635) granting a pension to Irene Googins was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Irene Googins, widow of Oscar Googins, late a private in Company B, Seventh Regiment of Minnesota Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### VIRGINIA TAYLOR RANDALL.

The bill (H. R. 7712) granting a pension to Virginia Taylor Randall was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Virginia Taylor Randall, widow of Lieut. Col. Burton Randall, late a surgeon in the United States Army.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. SAWYER. I believe that finishes up the pension bills.

The PRESIDING OFFICER. That closes the list.

#### MRS. BARBARA FUCHS.

Mr. SAWYER. I ask that Calendar No. 1177, being House bill 6489 granting a pension to Mrs. Barbara Fuchs, be now taken up. It was passed over on a former call.

Mr. HARRIS. Let it be read for information.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mrs. Barbara Fuchs, stepmother of John Fuchs, late of Company H, Sixth Regiment of Wisconsin Infantry Volunteers.

Mr. COCKRELL. Let the report be read.

Mr. GORMAN. I object.

The PRESIDING OFFICER. Objection being made, the bill goes over.

#### R. D. BECKLEY AND LEON HOWARD.

Mr. HARRIS. I ask consent of the Senate to proceed at this time to the consideration of Calendar No. 1639. It is House bill 5872, granting compensation to two colored employes of the House, about \$600 between the two. I ask the Senate to consider it at this time.

There being no objection, the bill (H. R. 5872) for the relief of R. D. Beckley and Leon Howard was considered as in Committee of the Whole. It provides for payment to R. D. Beckley and Leon Howard, late employes under the Doorkeeper of the House of Representatives, Forty-eighth Congress, the sum of \$368 each, being the difference in salary paid to laborers and that paid to messengers, which latter office they respectively filled from the 2d of January, 1884, to the 7th of July, 1884, and from the 1st of December, 1884, to the 4th of March, 1885, aggregating nine months and six days, during which they performed all of the duties of messengers and received only the pay of laborers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### HOTEL AT FORTRESS MONROE.

Mr. VEST. I ask the Senate to consider Senate joint resolution 73. There will be no objection to it, I think. It is Order of Business 1629.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. 73) authorizing the Secretary of War to grant a permit to John F. Chamberlin to erect a hotel upon the lands of the United States at Fortress Monroe, Va.

Mr. VEST. This is reported with the recommendation of the Secretary of War and the commanding general of the Army. I move in line 7, after the words "Secretary of War," to strike out "and the commanding officer at Fortress Monroe," so as to leave it in the discretion of the Secretary of War.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. In line 7, after the words "Secretary of War," it is proposed to strike out "and the commanding officer at Fortress Monroe;" so as to read:

That the Secretary of War be, and he is hereby, authorized to grant permission to John F. Chamberlin to build a hotel upon the lands of the United States at Fortress Monroe, Va., upon such site and with such plans and dimensions as may be approved by the Secretary of War.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

#### CARROLLTON TURNPIKE.

Mr. BECK. I ask to take up Order of Business 1679, being House bill 4503.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 4503) to authorize the Secretary of War to permit the Carrollton and Lock Number One Turnpike Road Company to locate and construct its road on land belonging to the United States at Lock No. 1, on the Kentucky River, in the State of Kentucky.

Mr. BECK. This is reported by both the Committee on Public Buildings and the Committee on Commerce. The company undertook to do it themselves, but found that they had to come to Congress.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### LAND OFFICE AT LAMAR, COLO.

Mr. TELLER. I desire to call up Order of Business 1692, being the bill (S. 2796) to establish a land office at Lamar, Colo.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### PUBLIC-BUILDINGS BILLS.

Mr. MAHONEY. I ask to take up the few remaining public-buildings bills. The first in order is Order of Business 1678.

The PRESIDING OFFICER. The Senator from Virginia asks permission to call up in order the public-buildings bills. Is there objection? The Chair hears none.

#### PUBLIC BUILDING AT READING, PA.

The bill (H. R. 1983) to increase the appropriation for the erection of the public building at Reading, Pa., was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### PUBLIC BUILDING AT OWENSBOROUGH, KY.

The bill (S. 1536) for the purchase of suitable grounds in the city of Owensborough, in the State of Kentucky, and the erection thereon of a public building for the post-office, United States collector's office, United States commissioner's office, and for the use of other United States officers in said city, and appropriating money for said purposes, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### PUBLIC BUILDING AT HAVERHILL, MASS.

The bill (S. 2194) for the erection of a public building at Haverhill, Mass., was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### PUBLIC BUILDING AT LA CROSSE, WIS.

The bill (S. 2242) to change the limit of appropriation for the public building at La Crosse, Wis., was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### PUBLIC BUILDING AT GALVESTON, TEX.

The bill (H. R. 2475) to amend an act approved May 25, 1882, entitled "An act for the construction of a public building at Galveston, Tex." was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### PUBLIC BUILDING AT OXFORD, MISS.

The bill (S. 2794) to amend an act entitled "An act for the erection and construction of a public building at Oxford, Miss.," approved July 12, 1882, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDING AT BROOKLYN, N. Y.

The bill (S. 1847) for the purchase of land for the Federal building in Brooklyn, N. Y., was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDING AT CHARLOTTE, N. C.

The bill (S. 246) to provide for the erection of a public building at Charlotte, N. C., was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDING AT ABINGDON, VA.

Mr. MAHONE. I move that Order of Business 1699, being the bill (H. R. 2539) authorizing the Secretary of the Treasury to exchange property purchased at Abingdon, Va., as a site for a public building, for more suitable property, be recommitted to the Committee on Public Buildings and Grounds.

The motion was agreed to.

JAMES CAIN.

Mr. SEWELL. I ask for the consideration of Order of Business 1627, reported from the Committee on Military Affairs.

By unanimous consent, the bill (H. R. 5552) for the relief James Cain was considered as in Committee of the Whole. It proposes to authorize the Secretary of War to change the record of James Cain, late a captain in the One hundred and fifty-eighth Regiment of Infantry, New York State Volunteers, and grant to him an honorable discharge, with the rank held by him at the time his connection with the service was severed, such change of record not to involve any claim for pay or services from the United States.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SIDNEY R. SMITH.

Mr. SEWELL. I have two more bills from the Committee on Military Affairs which I should like the Senate to indulge me in considering, the first one being Order of Business No. 1628.

By unanimous consent, the bill (H. R. 1511) for the relief of Sidney R. Smith was considered as in Committee of the Whole. It provides for paying to Sidney R. Smith, late a sergeant in the Thirty-third Regiment of New Jersey Infantry Volunteers, the pay and allowances of a second lieutenant of infantry from the 10th of March, 1864, the date at which he was assigned to duty under his commission as such, to the date of his actual discharge from service, deducting therefrom the pay received by him as sergeant during that period.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARGARET F. RYAN.

Mr. SEWELL. I ask to take up Order of Business No. 1702.

There being no objection, the bill (H. R. 1249) for the relief of Margaret F. Ryan was considered as in Committee of the Whole. It provides for the payment to Margaret F. Ryan, late widow of George F. Cole, late a private in Company F, Fifty-first Regiment of New York Infantry Volunteers, the amount due Cole for military services rendered by him from the 15th of August, 1864, to the 25th of July, 1865; also commutation for rations and clothing not drawn by him while a prisoner of war, from the 30th of September, 1864, to the date of the discharge of his regiment from the service, July 25, 1865; and, further, to pay to her such bounty as she is by existing law entitled on account of the services of Cole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MILITARY POST AT DENVER.

Mr. SEWELL. I ask to take up Order of Business No. 1706.

The bill (S. 2477) making an appropriation for the establishment and erection of a military post near the city of Denver, in the State of Colorado, was considered as in Committee of the Whole. Two hundred and fifty thousand dollars, or so much thereof as may be necessary, is by the bill appropriated for the establishment and erection of a military post or garrison near the city of Denver, Colo., to be expended under the direction of the Secretary of War.

Mr. COCKRELL. Is that to be selected without any action on the part of the War Department and the commanding general?

Mr. SEWELL. Oh, no; the report will show that the War Department approve, it and the commanding general is very anxious to have this post established in order to abandon four other posts.

Mr. SHERMAN. The report had better be read.

The PRESIDING OFFICER. The reading of the report is called for. It will be read.

The Secretary read the following report, submitted by Mr. SEWELL July 13, 1886:

The Committee on Military Affairs, to whom was referred the bill (S. 2477) making an appropriation for the establishment and erection of a military post near the city of Denver, in the State of Colorado, beg leave to report as follows: The committee present the following communications from the Secretary of

War and the Lieutenant-General commanding the Army, and make them a part of their report:

WAR DEPARTMENT, Washington City, July 7, 1886.

SIR: I have the honor to acknowledge the receipt of your letter of the 4th ultimo, inclosing a copy of Senate bill No. 2477, "making an appropriation for the establishment and erection of a military post near the city of Denver, in the State of Colorado," and requesting to be furnished with my opinion upon the proposed measure, accompanied with such facts and information as the Department may possess.

In reply I have the honor to inclose herewith a copy of the report of the Lieutenant-General of the Army, made to me under date of the 8th ultimo, upon this subject.

The subject-matter of this bill involves, in its consideration, the question of abandonment of numerous small posts that are no longer necessary, and the concentration of larger forces at strategic points near the frontier, or at points of railroad intersection. This question has hitherto engaged the attention of the Department, and has been presented to Congress through the annual reports of the Secretary of War for several successive years.

There can be no doubt that such a policy would prove highly advantageous to the military service, and result in greater economy, and I think from such facts as are before me and such consideration as I have been able to give the subject, that Denver should be one of the points at which one of the permanent military posts of the country should be located, and with that view I do not think there would be any objection to making an appropriation now for that purpose. If such an appropriation is made and a military post near Denver established, the following smaller posts could be disposed of, as no longer needed for military purposes, namely: Forts Lyon, Colorado; Union, New Mexico; Fred. Steele, Wyoming, and the cantonment on the Uncompahgre, Colorado.

Very respectfully, your obedient servant,

WM. C. ENDICOTT,  
Secretary of War.

Hon. WILLIAM J. SEWELL,  
Of Committee on Military Affairs, United States Senate.

HEADQUARTERS ARMY OF THE UNITED STATES,  
Washington, D. C., June 8, 1886.

SIR: I have the honor to return herewith Senate bill 2477, making an appropriation of \$250,000 for the establishment and erection of a military post near the city of Denver, Colo.

The city of Denver is situated in about the center of population of the State of Colorado. It is at the base of the Rocky Mountains, and is noted for its picturesque beauty and healthfulness. It is the center of a railroad system which embraces several transcontinental and one continental railroad, and strategically answers all the conditions of speedy transfer of troops in all directions. It is inexpensive compared with other posts, and the troops at Forts Lyon and Union could be advantageously quartered there at a much less expense to the Government. These posts have outlived the wants of the country surrounding them, and there is no necessity of keeping them up except to furnish shelter for the troops. If a post be established at Denver it would be attended with much less expense to the Government than the maintenance of the troops at the posts of Forts Lyon and Union.

Very respectfully, your obedient servant,

P. H. SHERIDAN,  
Lieutenant-General, Commanding.

Hon. WILLIAM C. ENDICOTT,  
Secretary of War.

The committee, after full consideration of this bill, believe that there is now no doubt as to the propriety of concentrating the posts of the Army, and to abandoning the numerous small ones, which, by reason of the settlement of the country, have, to a certain extent, become unnecessary to the service.

The concentration of the troops and the establishment of larger posts at points where railroad facilities are such that they can be maintained at minimum cost, and the commands distributed, in case of necessity, with the least possible delay, seem to the committee to be the policy which should be adopted by the Government. Denver is admirably situated for this purpose. The committee therefore recommend the passage of the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REPORT OF COMMISSIONER OF AGRICULTURE.

Mr. MANDERSON. I report from the Committee on Printing the joint resolution (H. Res. 201) for printing report of the Commissioner of Agriculture favorably, with amendments, and I ask for its immediate consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported from the Committee on Printing with amendments, in section 1, line 3, after the word "hundred," to strike out "and forty;" in the same section, lines 5 and 6, after the word "hundred," to strike out "and thirty-three;" in the same section, line 7, before the word "thousand," to strike out "seventy-six" and insert "seventy-five;" and in the same section, line 8, before the word "thousand," to strike out "thirty-one" and insert "twenty-five;" so as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there be printed 400,000 copies of the Annual Report of the Commissioner of Agriculture for the year 1886; 300,000 copies for the use of Members and Delegates of the House of Representatives, and 75,000 copies for the use of members of the Senate, and 25,000 copies for the use of the Department of Agriculture.

SEC. 2. That the sum of \$200,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to defray the cost of the publication of said report.

Mr. MANDERSON. I ask that the amendments may be put as one amendment, and I will explain what they are. We reduce the total number 40,000 and make a different distribution, giving 300,000 to the House of Representatives, 75,000 to members of the Senate, and 25,000 to the Department of Agriculture, which is the usual proportion of these reports.

The PRESIDING OFFICER. If there be no objection the question will be put on all the amendments as one.

The amendments were agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

SUPPLEMENT TO THE BOWMAN ACT.

Mr. HOAR. I move to take up Senate bill 2643.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 2643) supplemental to an act approved March 3, 1883, entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government."

Mr. SHERMAN. I give notice that after this bill is disposed of I will move an adjournment.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MISSISSIPPI RIVER BRIDGE AT MEMPHIS.

Mr. SHERMAN. I move that the Senate adjourn.

The PRESIDING OFFICER. The Chair takes the liberty to say that there are two or three Senators who have applied for recognition, and the Chair promised to recognize them. The Senator from Tennessee is now entitled to the floor.

Mr. SHERMAN. Very well.

Mr. HARRIS. I ask for the consideration at this time of Order of Business 1563, being the bill (S. 2516) to authorize the construction of a bridge across the Mississippi River at Memphis, Tenn.

Mr. CULLOM. I object to that.

Mr. SHERMAN. There being objection, I move that the Senate do now adjourn.

The motion was agreed to; and (at 10 o'clock and 25 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, July 27, 1886, at 11 o'clock a. m.

NOMINATIONS.

*Executive nominations received by the Senate the 26th day of July, 1886.*

TERRITORIAL JUSTICES.

Henry P. Henderson, of Mason, Mich., to be associate justice of the supreme court of the Territory of Utah, *vice* Philip H. Emerson, resigned.

Charles M. Thomas, of Bowling Green, Ky., to be associate justice of the supreme court of the Territory of Dakota, *vice* William E. Church, resigned.

UNITED STATES ATTORNEY.

Dupont Guerry, of Americus, Ga., to be attorney of the United States for the southern district of Georgia, *vice* S. A. Darnell, whose term of office expired July 18, 1886.

COLLECTOR OF CUSTOMS.

Bradley B. Smalley, of Vermont, to be collector of customs for the district of Vermont, in the State of Vermont, *vice* William Wells, resigned, in lieu of previous nomination in place of the suspended officer.

UNITED STATES MARSHALS.

James H. Freeman, of Tennessee, to be marshal of the United States for the western district of Tennessee, *vice* M. T. Williamson, commission expired, in lieu of previous nomination in place of the suspended officer.

Nathan D. Bates, of Preston, Conn., to be marshal of the United States for the district of Connecticut, *vice* John C. Kinney, whose term of office will expire August 4, 1886.

Ezra Baird, of Lewiston, Idaho, to be marshal of the United States for the Territory of Idaho, *vice* Frederick T. Dubois, whose term of office expired July 17, 1886.

INDIAN AGENTS.

Charles E. Sausser, of Lebanon, Ohio, to be agent for the Indians of the Yakima agency in Washington Territory, *vice* Robert H. Milroy, commission expired, in lieu of previous nomination in place of the suspended officer.

Wilson H. Talbott, of Grand Junction, Colo., to be agent for the Indians of the Tulalip agency in Washington Territory, *vice* Patrick Buckley, resigned.

REGISTER OF LAND OFFICE.

Mornethy Grover, of Miles City, Mont., to be register of the land office at Miles City, Mont., *vice* Washington Berry, resigned.

SURVEYOR OF CUSTOMS.

Jeremiah W. Coveney, of Boston, Mass., to be surveyor of customs for the district of Boston and Charlestown, in the State of Massachusetts, *vice* Adin B. Underwood, commission expired.

ASSISTANT SURGEON IN THE NAVY.

Eugene Potter Stone, of Massachusetts, to be an assistant surgeon in the Navy, to fill a vacancy in that grade.

FOR PROMOTION IN THE ARMY.

*Fifth Regiment of Artillery.*

First Lieut. Selden A. Day, to be captain, July 18, 1886, *vice* Weir, deceased.

Second Lieut. J. Walker Benét, to be first lieutenant, July 18, 1886, *vice* Day, promoted.

Additional Second Lieut. Gustave W. S. Stevens, of the Fourth Artillery, to be second lieutenant, July 18, 1886, *vice* Benét, promoted.

*Twenty-fifth Regiment of Infantry.*

First Lieut. David B. Wilson, adjutant, to be captain, July 16, 1886, *vice* Courtney, deceased.

APPOINTMENTS IN THE MARINE CORPS.

First Lieut. Mancil C. Goodrell; a resident of Iowa, to be a captain in the Marine Corps from the 16th of July, 1886, *vice* Capt. J. H. Washburn, Marine Corps, retired.

Second Lieut. T. Glover Fillette, a resident of South Carolina, to be a first lieutenant in the Marine Corps from the 16th of July, 1886, *vice* First Lieut. M. C. Goodrell, Marine Corps, promoted.

POSTMASTERS.

Frances B. Sprague, to be postmaster at Haywards, Alameda County, California, the office having become Presidential.

Napoleon B. Witt, to be postmaster at Tulare, Tulare County, California, *vice* Joseph M. Johnston, resigned.

Frank B. Genovar, to be postmaster at Saint Augustine, Saint John's County, Florida, *vice* William M. Dewhurst, commission expired.

William A. McAlister, to be postmaster at Vinton, Benton County, Iowa, *vice* Stephen A. Marine, suspended.

The nomination of William H. McAlister for the said office, delivered to the Senate on the 17th instant, is this day withdrawn.

Emanuel M. Funk, to be postmaster at Manning, Carroll County, Iowa, the office having become Presidential.

William H. Bowser, to be postmaster at Warsaw, Kosciusko County, Indiana, *vice* John N. Runyan, resigned.

Frederick H. Bates, to be postmaster at Elmhurst, Du Page County, Illinois, *vice* Jacob Glas, commission expired.

The nomination of Christian Blievernicht, who was appointed and afterward nominated to the Senate, and who since resigned, is this day withdrawn.

William H. Loomis, to be postmaster at Shawneetown, Gallatin County, Illinois, *vice* Sarah E. Edwards, commission expired.

Isaac D. Toll, to be postmaster at Petoskey, Emmet County, Michigan, *vice* Ralph Connable, resigned.

Duncan Patterson, to be postmaster at Wymore, Gage County, Nebraska, *vice* Seth H. Craig, resigned.

Isabell Campbell, to be postmaster at Blairsville, Indiana County, Pennsylvania, *vice* Elizabeth Alter, commission expired.

James P. Owens, to be postmaster at Scottsdale, Westmoreland County, Pennsylvania, *vice* John Robertson, commission expired.

John R. Young, to be postmaster at Hempstead, Waller County, Texas, *vice* A. C. Tompkins, removed.

Otis G. King to be postmaster at Kenosha, Kenosha County, Wisconsin, commission expired.

*Executive nomination confirmed by the Senate July 10, 1886.*

B. F. Ellsberry to be postmaster at Ironton, Lawrence County, Ohio.

The injunction of secrecy having been removed from the report in this case it was ordered to be printed in the RECORD, as follows:

Your Committee on Post-Offices and Post-Roads have considered the case of S. B. Steece, suspended and to be removed from the office of postmaster at Ironton, in the State of Ohio, and the appointment of B. F. Ellsberry to the same. The response of the Postmaster-General to the request of the committee for information, supplemented by their investigation elsewhere, satisfies them that Major Steece was a brave and faithful soldier in the Union Army in the war of the rebellion; that he is a reputable citizen of unblemished character and undoubted integrity; that his conduct of the affairs of his office was unexceptionable; that he was not removed for any cause affecting his official or personal character, but for political reasons alone.

Your committee further find that the appointee, Ellsberry, is entirely competent for the performance of the duties of this office, and, as Major Steece has no wish touching this suspension and appointment other than full vindication of his personal and official character against any suspicion that might attach from the same, they report back to the Senate this nomination with the recommendation that the nominee be confirmed.

O. D. CONGER, of Committee.

HOUSE OF REPRESENTATIVES.

MONDAY, July 26, 1886.

The House met at 11 o'clock a. m. Prayer by Rev. Dr. BULLOCK, of Washington, D. C.

CORRECTION OF JOURNAL.

The Journal of Saturday's proceedings was read.

Mr. OATES. Mr. Speaker, I desire to correct the Journal wherein it states that on the last bill under consideration at the evening session on Saturday, on the motion of the gentleman from Indiana [Mr. COBB] for the previous question on the bill and pending amendments, it was announced that no quorum voted thereon. That point was made, and the House, under a misapprehension, supposed it was so. In fact a quorum had voted, and the previous question was ordered. The RECORD shows there were 128 yeas and 37 nays, making 165 votes. That was the fact; but the House, on the suggestion of the gentleman from

Pennsylvania [Mr. BOYLE] that no quorum had voted, accepted that as correct, although in fact a quorum had voted and the previous question was ordered.

The SPEAKER. The Journal will be corrected in accordance with the statement of the gentleman from Alabama. The Chair desires to state as a matter of justice to the tally clerk, that in recording the affirmative vote in the column assigned for that purpose upon the sheet, when that vote had reached 49, he put down the figures 49, and called two or three more names before there was any other vote in the affirmative. When the next gentleman voted in the affirmative the tally clerk, looking back to his previous figures, took the 9 for a 4, and it looks very much like a 4, as the gentleman from Alabama will see if he examines it, and therefore recorded the next vote as 45, when it should have been 50; and that error was continued until the close of the roll-call, and the footings were made accordingly. It was a mistake made simply by the tally clerk on account of mistaking the figure. The Chair therefore thinks the Journal should be corrected to show the previous question was ordered. On the next vote taken in the House a quorum did not vote, and further proceedings were stopped.

Mr. HOLMAN. I suggest that much inconvenience may result from going back from the announcement made, if under a mistake the Chair makes an incorrect statement and the House proceeds with the current business.

The SPEAKER. But the session of Saturday evening was a special session. The only effect of the mistake was to prevent apparently the previous question being ordered on that bill. As a matter of fact the previous question was ordered. The Chair thinks the Journal should be corrected; and the bill comes over when next taken up for consideration with the previous question ordered on the amendments and the engrossment and third reading of the bill as amended.

Mr. OATES. The RECORD does not show that the Speaker *pro tempore* announced that no quorum had voted. It says: "The vote was then announced as above recorded." The gentleman from Pennsylvania [Mr. BOYLE] suggested that no quorum had voted, and the House accepted that statement.

The SPEAKER. The Chair calls the attention of the gentleman from Alabama to the fact that the House got as far as it could in the proceedings anyhow, because on the next vote it was clear there was no quorum on the call of the yeas and nays.

Mr. McMILLIN. I do not know what the RECORD shows, but as a matter of fact, misled by the mistake to which the Speaker has called attention, I, being in the chair at the time, announced that no quorum had voted. I was under the same misapprehension as the clerk was.

The SPEAKER. The mistake of 5 votes in the tally would show no quorum. The Journal will be corrected, and without objection will be approved as corrected.

#### LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted as follows:

To Mr. LAFFOON, for to-day, on account of sickness.

To Mr. DAVIDSON, of Florida, indefinitely, on account of important business.

To Mr. SMALLS, until Tuesday next.

To Mr. WADE, for this day, on account of sickness.

To Mr. HOWARD, until Thursday, the 29th instant, on account of important business.

To Mr. MORROW, indefinitely, on account of sickness.

#### CHANGE OF REFERENCE.

The SPEAKER. The bill (H. R. 9807) for the relief of Mrs. Mary A. Smith has been erroneously referred to the Committee on Pensions. It should have been referred to the Committee on Invalid Pensions. That order will be made.

#### YELLOW FEVER COMMISSION.

Mr. DAVIS. Mr. Speaker, I ask unanimous consent that the Committee of the Whole be discharged from the further consideration of Senate bill 1730, with amendments, providing for the appointment of a commission to investigate the truth of alleged discoveries of the specific cause of yellow fever, and that the bill be put upon its passage.

The SPEAKER. The bill will be read, after which the Chair will ask for objections.

The bill and amendments were read.

Mr. DAVIS. Mr. Speaker, I now ask unanimous consent to introduce the amended Senate bill as a distinct bill.

Mr. DOWDNEY. I object.

#### ADDITIONAL CIRCUIT JUDGE, SECOND JUDICIAL DISTRICT.

Mr. COLLINS. Mr. Speaker, I ask unanimous consent that the Committee of the Whole be discharged from the further consideration of House bill 8599, providing an additional circuit judge in the second judicial district, and that the same be put upon its passage.

The bill was read.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. COX. Let the report be read, Mr. Speaker.

Mr. HOLMAN. Mr. Speaker, as the consideration of this bill is likely to occupy more time than we can give to it this morning, I shall

call for the regular order, suggesting that the bill go over until to-morrow morning, and reserving my right to object.

#### SUNDRY CIVIL APPROPRIATION BILL.

Mr. RANDALL. Mr. Speaker, I ask to have the sundry civil appropriation bill taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed.

Mr. HEPBURN. I object. Let it go to the Committee of the Whole on the state of the Union.

#### OTOE AND MISSOURIA RESERVATION.

Mr. PERKINS. Mr. Speaker, I desire to present a conference report:

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7087) entitled "An act authorizing and directing the Secretary of the Interior to extend the time for the payment of the purchase-money on the sale of the reservation of the Otoe and Missouri tribes of Indians in the States of Nebraska and Kansas," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to said bill, and agree to the same with an amendment as follows: Add to Senate amendment the following: "Provided further, That no forfeiture shall be deemed to have accrued solely because of a default in payment of principal or interest becoming due April 30, 1886, if the interest due upon said date shall be paid within sixty days after the passage of this act;" and that the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same.

OLIN WELLBORN,  
T. G. SKINNER,  
B. W. PERKINS,  
*Managers on the part of the House.*  
H. L. DAWES,  
BENJ. HARRISON,  
S. B. MAXEY,  
*Managers on the part of the Senate.*

Mr. PERKINS. Unless some gentleman desires an explanation I move that the conference report be adopted.

The report was agreed to.

Mr. PERKINS moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SUNDRY CIVIL APPROPRIATION BILL.

The SPEAKER. Does the gentleman from Iowa [Mr. HEPBURN] withdraw his objection to the request of the gentleman from Pennsylvania [Mr. RANDALL] that the sundry civil appropriation bill be referred to the Committee on Appropriations and ordered to be printed?

Mr. HEPBURN. I withdraw it.

The SPEAKER. If there be no further objection it will be so ordered.

There was no objection.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McCook, its Secretary, informed the House that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 2349) granting a pension to Catharine Lanigan.

The message also announced that the Senate had passed with amendments the bill (H. R. 9478) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1887, and for other purposes.

The message further announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 68) for the relief of William P. Chambliss.

#### ENROLLED BILLS SIGNED.

Mr. NEECE, from the Committee on Enrolled Bills, reported that the committee had examined and found duly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. 453) for the erection of a public building at Jacksonville, Fla.;

A bill (S. 1492) for the relief of Ellen Sadler, sister of John Sadler;

A bill (S. 1421) granting a pension to William H. Weaver; and

A bill (S. 948) granting a pension to Joseph S. Moody.

#### LEGISLATIVE APPROPRIATION BILL.

Mr. HOLMAN. I desire to submit as a privileged question the report of a committee of conference.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on certain amendments of the Senate to the bill (H. R. 8974) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1887, and for other purposes, having met, after full and free conference have been unable to agree.

W. S. HOLMAN,  
GEORGE C. CABELL,  
J. G. CANNON,  
*Managers on the part of the House.*  
W. B. ALLISON,  
H. L. DAWES,  
F. M. COCKRELL,  
*Managers on the part of the Senate.*

The following is the statement accompanying the report:

The managers on the part of the House of the conference on the disagreeing votes of the two Houses on certain amendments of the Senate to the bill (H. R. 8974) making appropriations for the legislative, executive, and judicial expenses of the Government for 1887 submit the following written statement in explanation of the accompanying report from the conference committee:

The amendments referred to and considered by the conference committee relate to the payment of clerks to Senators who are not chairmen of committees, the increase of the amount for payment of subordinate officers of the internal-revenue service from \$1,900,000 to \$2,050,000, and the sum of \$10,000 proposed for the collection of statistics relating to the laws of marriage and divorce. Being unable to agree upon any of said amendments, the bill is in the same condition as when last considered by the House.

WM. S. HOLMAN,  
GEO. C. CABELL,  
J. G. CANNON,

Managers on the part of the House.

The SPEAKER. If there be no objection this report will be accepted.

Mr. HOLMAN. The conferees of the two Houses have been unable to agree on the first of the three pending points of disagreement; that is, the appropriation of \$23,250 for clerks of Senators. The other two points of disagreement are more formal than real. The real point of disagreement is in regard to the clerks for Senators. I believe this is the second or third time the subject has been reported to the House. The conferees on the part of the Senate are not willing to recede, and the question is what the House shall do.

I wish to state as a reason why this subject should be disposed of at the earliest moment that the bill, as already agreed upon by the two Houses, materially reduces the number of employes of the Government, so that every day that this bill is delayed in becoming a law expense is being incurred to the extent of several thousand dollars more than would be incurred if the bill were in force. I mention this as a reason why it is important the two Houses should come to an agreement at the earliest moment. Every day's delay involves an extra expenditure of several thousand dollars. As a matter of form, I move that the House further insist on its disagreement.

Mr. STRUBLE. Why does the gentleman make that motion "as a matter of form?"

Mr. HOLMAN. So that any gentleman may make any other motion he thinks proper.

Mr. BLOUNT. I wish to ask the gentleman from Indiana whether it is not true that the main question now in controversy is in reference to the salaries of clerks of Senators.

Mr. HOLMAN. That is what I have been attempting to say. That is really the point of disagreement.

Mr. BLOUNT. In an experience of many years has not the Senate always insisted firmly on this point and has not the House always yielded; and is not that likely to be our experience at this time? If so, and if the delay in the passage of the bill is imposing expense upon the Government, had we not better yield at once than yield later on after further expenditure has been incurred?

Mr. HOLMAN. Well, experience demonstrates that the House finally yields the point. [Laughter.] And the subject is presented in this form—that the Senate is a unit in insisting upon this provision, while the House is not a unit in opposition to it.

Mr. BROWN, of Pennsylvania. Does not the gentleman think the House has held out long enough to satisfy the country of the reform tendency of the House? [Laughter.]

Mr. HOLMAN. I think it important the measure should be disposed of promptly. I think that this expenditure of several thousand dollars a day ought to be saved.

Mr. OATES. Will the gentleman from Indiana yield to me?

Mr. HOLMAN. Yes, sir.

Mr. OATES. As the gentleman from Indiana feels a delicacy in making the motion I will move that the House concur in the Senate amendments.

Mr. HOLMAN. I call the previous question.

Mr. CABELL. The gentleman from Alabama moves that the House concur in the Senate amendments. I do not think we ought to concur as to the first amendment. I am perfectly willing for the House to say what should be done in regard to the other amendments; but as to the first amendment, I think it possible we may come to some agreement.

The SPEAKER. The Chair understands the gentleman from Alabama to move that the House recede from its disagreement to amendments numbered 2 and 17 and agree to the same, those being the amendments relating to compensation of clerks of Senators.

Mr. OATES. That is my motion.

Mr. HOLMAN. There are two other matters pending and not finally disposed of; but an agreement is practically reached upon those. I call the previous question.

Mr. BURROWS. Will the gentleman from Alabama [Mr. OATES] give us some reason in favor of his motion?

Mr. OATES. I think it is right. Senators have determined that they ought to have clerks, that the clerks are necessary for the performance of the duties of Senators; and I think they ought to have them.

Mr. BURROWS. Will the gentleman give us some reason why the pay of a Senator should practically be \$19.69 a day, while that of a Representative is only \$13.69?

Mr. OATES. Perhaps that is the fault of the House; perhaps the trouble is that Representatives have not asked for what they are entitled to in this respect. I am in favor of members of the House who are not chairmen of committees having clerks.

Mr. BURROWS. I am opposed to the inequality. I would like to hear some reason for allowing a Senator \$6 more compensation per diem than a Representative.

Mr. OATES. Well, as I said, it is perhaps the fault of the House that we have not asked for an allowance of this kind; otherwise we might be on equal terms with the Senators.

The previous question was ordered.

The SPEAKER. The question is on the motion of the gentleman from Alabama [Mr. OATES] that the House recede from its disagreement to Senate amendments numbered 2 and 17 and agree to the same, those being the amendments which provide compensation for Senators' clerks.

Mr. COX. I demand a division.

The question being taken, there were—ayes 61, noes 45.

Mr. PAYSON and Mr. REED, of Maine, called for the yeas and nays. The yeas and nays were ordered; there being—ayes 35, noes 73; more than one-fifth voting in the affirmative.

The question was taken and there were—yeas 96, nays 121, not voting 105; as follows:

YEAS—96.

Adams, G. E.	Foran,	Lore,	Sawyer,
Allen, C. H.	Forney,	Martin,	Skinner,
Baker,	Funston,	Millard,	Spooner,
Bayne,	Gillfillan,	Moffatt,	Springer,
Bingham,	Glover,	Morgan,	Stephenson,
Blount,	Goff,	Morrill,	Stewart, J. W.
Boyle,	Grosvenor,	Morrison,	St. Martin,
Brady,	Grout,	Murphy,	Stone, E. F.
Breckinridge, C. R.	Guenther,	Negley,	Strait,
Breckinridge, W. C. P.	Hall,	Nelson,	Struble,
Burleigh,	Harmer,	Oates,	Swinburne,
Butterworth,	Harris,	O'Neill, Charles	Tarsney,
Carleton,	Henderson, D. B.	O'Neill, J. J.	Taulbee,
Catchings,	Henley,	Outhwaite,	Thomas, O. B.
Conger,	Hewitt,	Parker,	Van Eaton,
Crisp,	Hiestand,	Payne,	Wakefield,
Cutcheon,	Hill,	Peel,	Warner, A. J.
Davidson, A. C.	Holman,	Perkins,	Weber,
Davis,	Irion,	Plumb,	Wilkins,
Dowdney,	Jones, J. T.	Reagan,	Wilson,
Dunham,	Kelley,	Rice,	Winans,
Eden,	Ketcham,	Romeis,	Wolford,
Evans,	La Follette,	Rowell,	Woodburn,
Felton,	Lindsay,	Sadler,	Worthington.

NAYS—121.

Allen, J. M.	Dockery,	Lehbach,	Rockwell,
Anderson, J. A.	Dorsey,	Little,	Ryan,
Ballentine,	Dunn,	Loving,	Sayers,
Barnes,	Ellsberry,	Lowry,	Seney,
Belmont,	Ermentrout,	Lyman,	Sessions,
Bennett,	Everhart,	Mahoney,	Shaw,
Bound,	Farquhar,	McAdoo,	Singleton,
Brown, C. E.	Findlay,	McComas,	Snyder,
Brown, W. W.	Fleeceger,	McCreary,	Sowden,
Browne, T. M.	Ford,	McKenna,	Stahneckker,
Buchanan,	Frederick,	McKinley,	Stewart, Charles
Bunnell,	Fuller,	McMillin,	Stone, W. J., Ky.
Burnes,	Geddes,	McRae,	Stone, W. J., Mo.
Burrows,	Green, R. S.	Merriman,	Swope,
Bynum,	Green, W. J.	Milliken,	Taylor, J. M.
Cabell,	Hatch,	Mills,	Thompson,
Caldwell,	Hayden,	Mitchell,	Tillman,
Campbell, Felix	Hemphill,	Neal,	Townshend,
Campbell, J. M.	Henderson, J. S.	Neece,	Trigg,
Cannon,	Herbert,	Osborne,	Turner,
Clardy,	Hitt,	Owen,	Viele,
Cobb,	Hopkins,	Payson,	Wade,
Collins,	Hudd,	Perry,	Ward, J. H.
Compton,	Hutton,	Peters,	Warner, William
Cowles,	Johnston, T. D.	Pettibone,	Weaver, A. J.
Cox,	Jones, J. H.	Pindar,	Weaver, J. B.
Croxton,	Kleiner,	Pirce,	Wheeler,
Culberson,	Landes,	Price,	Wise.
Curtin,	Lanham,	Randall,	
Dargan,	Lawler,	Reed, T. B.	
Dibble,	Le Fevre,	Richardson,	

NOT VOTING—105.

Adams, J. J.	Crain,	Hermann,	O'Donnell,
Aiken,	Daniel,	Hires,	O'Ferrall,
Anderson, C. M.	Davenport,	Hiscock,	O'Hara,
Arnot,	Davidson, R. H. M.	Holmes,	Phelps,
Atkinson,	Dawson,	Houk,	Pidcock,
Barbour,	Dingley,	Howard,	Ranney,
Barksdale,	Dougherty,	Jackson,	Reid, J. W.
Barry,	Eldredge,	James,	Reese,
Beach,	Ely,	Johnson, F. A.	Riggs,
Blanchard,	Fisher,	Johnston, J. T.	Robertson,
Bland,	Gallinger,	King,	Rogers,
Bliss,	Gay,	Laffoon,	Scott,
Boutelle,	Gibson, C. H.	Laird,	Scranton,
Bragg,	Gibson, Eustace	Libbey,	Seymour,
Brumm,	Glass,	Long,	Smalls,
Buck,	Hale,	Louttit,	Spriggs,
Campbell, J. E.	Halsell,	Markham,	Steele,
Campbell, T. J.	Hammond,	Matson,	Storm,
Candler,	Hanback,	Maybury,	Symes,
Caswell,	Haynes,	Miller,	Taylor, E. B.
Clements,	Heard,	Morrow,	Taylor, I. H.
Comstock,	Henderson, T. J.	Muller,	Taylor, Zach.
Cooper,	Hepburn,	Norwood,	Thomas, J. R.

Throckmorton,	Wait,	West,	Willis.
Tucker,	Wallace,	White, A. C.	
Van Schaick,	Ward, T. B.	White, Milo	
Wadsworth,	Wellborn,	Whiting,	

So the motion was not agreed to.

On motion of Mr. PAYSON, by unanimous consent the recapitulation of the names was dispensed with.

The following pairs were announced until further notice:

Mr. GLASS with Mr. SWINBURNE.

Mr. ARNOT with Mr. THOMAS, of Illinois.

Mr. DAWSON with Mr. RANNEY.

Mr. BLAND with Mr. VAN SCHAICK.

Mr. BARKSDALE with Mr. DAVENPORT.

Mr. SPRIGGS with Mr. OWEN.

Mr. BRAGG with Mr. CASWELL.

Mr. MILLER with Mr. HOUK.

Mr. DANIEL with Mr. WHITING.

Mr. ROBERTSON with Mr. STEELE.

Mr. ANDERSON, of Ohio, with Mr. HANBACK.

Mr. ADAMS, of New York, with Mr. WEST.

Mr. ROGERS with Mr. EZRA B. TAYLOR.

Mr. BARBOUR with Mr. LIBBEY.

Mr. THROCKMORTON with Mr. WADSWORTH.

Mr. HAMMOND with Mr. O'DONNELL.

Mr. RIGGS with Mr. HAYNES.

Mr. CANDLER with Mr. LOUITT.

The following pairs were announced for to-day:

Mr. WELLBORN with Mr. PHELPS.

Mr. DAVIDSON, of Florida, with Mr. WAIT.

Mr. PIDCOCK with Mr. JOHNSON, of New York.

Mr. LAFFOON with Mr. WADE.

Mr. HALSELL with Mr. ELY.

Mr. CAMPBELL, of Ohio, with Mr. BRUMM.

The result of the vote was then announced as above recorded.

Mr. HOLMAN. I move that the House still further insist upon the amendments numbered 2, 88, 179, and 180, the remaining amendments, and ask a further conference; and on that I call the previous question. The previous question was ordered.

The motion of Mr. HOLMAN was agreed to.

The SPEAKER appointed Mr. HOLMAN, Mr. CABELL, and Mr. CANON as conferees on the part of the House.

#### CORRECTION OF A ROLL.

Mr. COWLES. Mr. Speaker, I desire to correct the RECORD of the 23d instant. I am recorded as voting upon the last ballot recorded on page 7341. That is a mistake. I had been called out of the House and was not present during that ballot, but was paired with my friend from Iowa [Mr. STRUBLE]. The pair is inserted, but my name is erroneously recorded as voting in the affirmative.

The SPEAKER. Will the gentleman indicate the matter under consideration on that occasion?

Mr. COWLES. The question was on considering the bill (H. R. 9114) to provide for the fortification of wine for exportation.

The SPEAKER. The correction will be made.

#### ORDER OF BUSINESS.

Mr. TAULBEE. I ask unanimous consent that members be allowed to hand their bills to the Clerk for reference to-day, without taking the time of the House to call the States in their alphabetical order, just as was done on last Monday. I make this request for the purpose of saving time.

The SPEAKER. For how long a time? Will the gentleman indicate? The leave on last Monday was quite indefinite, and members continued to hand bills in at the desk for a day or two afterward.

Mr. TAULBEE. Only for this day.

Mr. STRAIT. I object.

#### HARRIET A. ROBB.

Mr. DUNN introduced a bill (H. R. 9936) for the relief of Harriet A. Robb; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

#### SAMUEL F. DAVIDSON.

Mr. DUNN also introduced a bill (H. R. 9937) for the relief of Samuel F. Davidson; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

#### WILLIAM W. STOUT.

Mr. BRECKINRIDGE, of Arkansas, introduced a bill (H. R. 9938) for the relief of William W. Stout, administrator of James M. Stout; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

#### GOVERNMENT BALANCES OF ACCOUNTS.

Mr. BRECKINRIDGE, of Arkansas, also introduced a bill (H. R. 9939) to determine and settle finally balances on accounts due to and from the United States Government, and for other purposes; which was read a first and second time, referred to the Committee on Expenditures in the Treasury Department, and ordered to be printed.

#### JOHN EAGAN.

Mr. DAVIDSON, of Florida, introduced a bill (H. R. 9940) for the relief of John Eagan; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

#### TRANSFER OF PROPERTY AT SAINT AUGUSTINE, FLA.

Mr. DAVIDSON, of Florida (by request), also introduced a bill (H. R. 9941) to transfer a certain lot or tract of land in the city of Saint Augustine, Fla., known as the "old powder-house lot," to the city of Saint Augustine, Fla., in trust, for educational, library, and park purposes; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

#### SILVER-PROFIT FUND.

Mr. ADAMS, of Illinois, submitted the following resolution; which was read, and referred to the Committee on Expenditures in the Treasury Department:

*Resolved*, That the Secretary of the Treasury be requested to furnish to the House of Representatives, at the beginning of next session of Congress, a detailed statement of all sums expended by the various mints and assay offices from the fund known as the silver-profit fund, authorized by section 3526 of the United States Statutes, from and including the year 1878 to the present time.

#### HENRY P. ALEXANDER.

Mr. RYAN introduced a bill (H. R. 9942) granting a pension to Henry P. Alexander; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

#### R. M. WILSON.

Mr. TAULBEE introduced a bill (H. R. 9943) for the relief of R. M. Wilson; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

#### ELISHA YOUNG.

Mr. TAULBEE also introduced a bill (H. R. 9944) for the relief of Elisha Young; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

#### RACHEL WALCOTT.

Mr. FINDLAY (by request) introduced a bill (H. R. 9945) for the relief of Rachel Walcott; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

#### WILLIAM P. GORSUCH.

Mr. SHAW introduced a bill (H. R. 9946) for the relief of William P. Gorsuch; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

#### JOSEPH WHITE.

Mr. MCOMAS introduced a bill (H. R. 9947) granting an increase of pension to Joseph White; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

#### MARTHA H. SANBORN.

Mr. LONG introduced a bill (H. R. 9948) for the relief of Martha H. Sanborn; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

#### EDWIN R. GUSTIN.

Mr. LONG also introduced a bill (H. R. 9949) granting a pension to Edwin R. Gustin; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

#### MARY POWELL.

Mr. SINGLETON introduced a bill (H. R. 9950) for the relief of Mary Powell; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

#### MRS. HATTIE E. BOUGHTON.

Mr. GLOVER introduced a bill (H. R. 9951) granting a pension to Mrs. Hattie E. Boughton; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

#### THOMAS HUGHES.

Mr. GLOVER also introduced a bill (H. R. 9952) granting a pension to Thomas Hughes; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

#### ROBERT A. MURRAY.

Mr. GLOVER also introduced a bill (H. R. 9953) granting a pension to Robert A. Murray; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

#### OLIVER H. P. APPLGATE.

Mr. GLOVER also introduced a bill (H. R. 9954) granting a pension to Oliver H. P. Applegate; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

#### OWNERS OF STEAMER CLARA BELL.

Mr. GLOVER also introduced a bill (H. R. 9955) for the relief of owners of steamer Clara Bell; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

## EXPENDITURES BY GENERAL HANCOCK.

Mr. GLOVER (by request) also submitted the following resolution; which was referred to the Committee on Rules:

*Resolved*, That a committee of three be appointed to inquire as to the expenditures made by the late General W. S. Hancock in September and October, 1881, in entertaining, under direction of the Secretary of War, the French officers invited to assist at the centennial celebration of the surrender of the British army at Yorktown to the combined forces of the United States and France, and whether the same had been paid to him in his lifetime or to his estate since his decease.

## EXPENDITURES OF THE POST-OFFICE DEPARTMENT.

Mr. CLARDY introduced a bill (H. R. 9956) requiring all expenditures of the Post-Office Department to be passed upon by a comptroller; which was read a first and second time, referred to the Committee on Expenditures in the Post-Office Department, and ordered to be printed.

JAMES DE CAMP.

Mr. BUCHANAN introduced a bill (H. R. 9957) granting a pension to James De Camp; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES JONES.

Mr. BUCHANAN also introduced a bill (H. R. 9958) for the relief of James Jones; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MICHAEL CORBIN.

Mr. MULLER introduced a bill (H. R. 9959) granting an increase of pension to Michael Corbin, late a private in Company A, First New York Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN L. HOPSON.

Mr. JOHNSTON, of North Carolina, introduced a bill (H. R. 9960) for the relief of John L. Hopson; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM E. BOUDINOT.

Mr. COX introduced a bill (H. R. 9961) for the relief of William E. Boudinot; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

MEMPHIS BRIDGE.

Mr. HILL introduced a bill (H. R. 9962) to authorize the construction of a bridge across the Mississippi River at Memphis, in the State of Tennessee; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JACOB CROSLY.

Mr. SENEY introduced a bill (H. R. 9963) granting a pension to Jacob Crosly; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY WEATHERWAX.

Mr. FORAN introduced a bill (H. R. 9964) for the relief of Henry Weatherwax, of Cleveland, Ohio; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JOHN PENDLETON.

Mr. FORAN also introduced a bill (H. R. 9965) granting a pension to John Pendleton, Company E, Forty-fifth Regiment United States Colored Troops; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE A. M'KAY.

Mr. FORAN also introduced a bill (H. R. 9966) granting an increase of pension to George A. McKay, captain Seventh Ohio Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHARLES GOOD.

Mr. FORAN also introduced a bill (H. R. 9967) granting a pension to Charles Good, Company E, Fifth United States Colored Troops; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BRIDGET SHANLEY.

Mr. FORAN also introduced a bill (H. R. 9968) granting a pension to Bridget Shanley, widow of William Shanley, late of Company C, One hundred and twenty-fourth Ohio Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

THOMAS B. POWERS.

Mr. FORAN also introduced a bill (H. R. 9969) granting a pension to Lieut. Thomas B. Powers, One hundred and ninety-ninth Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

M. J. SHELPEY.

Mr. FORAN also introduced a bill (H. R. 9970) granting accrued pension to M. J. Shelp, widow of Charles Shelp, Company G, One hundred

and twenty-second New York Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARY STEWART.

Mr. FORAN also introduced a bill (H. R. 9971) granting a pension to Mary, widow of John Stewart, Company F, Thirteenth Ohio Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. C. CONLEY.

Mr. FORAN also introduced a bill (H. R. 9972) granting a pension to Mrs. C. Conley, late army nurse; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BOUNTY ACT OF JULY 28, 1866.

Mr. FORAN also introduced a bill (H. R. 9973) to extend the limitation of the additional bounty law known as the act of July 28, 1866; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PATRICK TIGUE.

Mr. FORAN also introduced a bill (H. R. 9974) to remove the charge of desertion from the military record of Patrick Tigue; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOHN JOHNSON.

Mr. FORAN also introduced a bill (H. R. 9975) to remove the charge of desertion from the military record of John Johnson; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ANDREW BROWN.

Mr. FORAN also introduced a bill (H. R. 9976) to remove the charge of desertion from the military record of Andrew Brown; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

NICHOLAS MOSER.

Mr. FORAN also introduced a bill (H. R. 9977) to remove the charge of desertion from the military record of Nicholas Moser; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MICHAEL SHANNON.

Mr. FORAN also introduced a bill (H. R. 9978) to remove the charge of desertion from the military record of Michael Shannon; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MINOR CHILDREN OF LIEUT. GEORGE R. M'GUIRE.

Mr. BINGHAM introduced a bill (H. R. 9979) granting a pension to Victor, Gertrude, Margaret, Helen, minor children of Lieut. George R. McGuire; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

H. CLAY FISHER.

Mr. HARMER introduced a bill (H. R. 9980) for the relief of H. Clay Fisher, second lieutenant United States Marine Corps; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

ANDREW N. BURNS.

Mr. GLASS (by request) introduced a bill (H. R. 9981) for the relief of Andrew N. Burns, late of Company C, First Kentucky Mounted Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ESTATE OF J. G. RANDOLPH, DECEASED.

Mr. JOHN M. TAYLOR introduced a bill (H. R. 9982) for the relief of the estate of J. G. Randolph, deceased, of McMinn County, Tennessee; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JURISDICTION OF DISTRICT COURTS.

Mr. CULBERSON introduced a bill (H. R. 9983) to enlarge the jurisdiction of the district courts of the United States, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

HEIRS OF JOSÉ B. MARTINEZ.

Mr. JOSEPH introduced a bill (H. R. 9984) for the relief of the heirs of José B. Martinez, deceased; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

LAND GRANT IN NEW MEXICO.

Mr. JOSEPH also introduced a bill (H. R. 9985) to confirm a grant of land to citizens of Socorro, N. Mex.; which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

## SWEETWATER LAND DISTRICT, WYOMING.

Mr. CAREY introduced a bill (H. R. 9986) to establish the Sweetwater land district, in the Territory of Wyoming; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

## EIGHT-HOUR LAW FOR LETTER-CARRIERS.

Mr. LAWLER introduced the following resolution; which was referred to the Committee on Rules:

*Resolved*, That on Saturday evening, July 31, the House shall take a recess at 5 o'clock until 8 o'clock p. m., the evening session to be devoted exclusively to the consideration of Senate bill 2076, passed by the Senate, and entitled "An act to extend to letter-carriers the advantages secured to other employes of the United States by section 3738 of the Revised Statutes relating to the hours of labor," and known as "the eight-hour law."

## BUSINESS OF COMMITTEE ON NAVAL AFFAIRS.

Mr. HERBERT introduced the following resolution; which was referred to the Committee on Rules:

*Resolved*, That the first Wednesday after the first Monday of December, 1886, and from day to day thereafter, after the morning hour for the consideration of bills and resolutions be set apart for the consideration of business from the Committee on Naval Affairs; not to interfere with revenue nor general appropriation bills, nor with prior orders, nor with the consideration of reports from the Committee on Public Lands under the special order, nor with the business of Mondays and Fridays; and the consideration of such business from said Committee on Naval Affairs shall be continued subject to the limitation until the said committee shall have occupied for two days the time remaining after the expiration of said morning hour for the consideration of bills and resolutions.

## ENROLLED BILLS AND JOINT RESOLUTIONS.

Mr. NEECE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

A bill (H. R. 5038) for the relief of Stephen Sauer;

A bill (H. R. 9208) to permit the entry free of duty of foreign goods for exhibition at the fourth biennial exhibition of the United States Bottlers' Protective Association;

Joint resolution (H. Res. 54) to credit Lieutenants Giles B. Harber and William H. Schuetze with sea-duty and sea-pay while engaged in the search for Lieutenant Chipp and party, and also for the time employed in bringing home the remains of Lieutenant-Commander De Long and party; and

Joint resolution (H. Res. 129) directing the Public Printer to forward the CONGRESSIONAL RECORD to our legations abroad.

## FORFEITURE OF NORTHERN PACIFIC LAND GRANT.

Mr. HENLEY. I rise to make a privileged report for present consideration from the Committee on the Public Lands.

The title of the bill was read, as follows:

A bill (S. 2172) restoring to the United States certain of the lands granted to the Northern Pacific Railroad Company to aid in the construction of a railroad from Lake Superior to Puget Sound, and to restore the same to settlement, and for other purposes.

The following substitute proposed by the Committee on the Public Lands as an amendment was read:

Strike out all after the enacting clause and insert the following:

That except as to all lands granted for that portion of the road of the Northern Pacific Railroad which was completed before July 4, A. D. 1879, and also excepting the right of way, with necessary lands used in operating said railroad, and also except all lands included within the limit of any village, town, or city site, the grant of public lands made in aid of the construction of the said Northern Pacific Railroad by act of Congress approved July 2, A. D. 1866 (13 Statutes at Large, page 395), be, and it is hereby, declared forfeited and determined; and the said act making the grant is, so far as said grant is concerned, hereby repealed, and said lands are hereby restored to the public domain, for sale and settlement under existing laws of the United States; and all of said lands shall be held and treated as though said grant and the withdrawals under it had never been made: *Provided*, That in case of any of the lands embraced within the terms of this act, to which said railroad company would have been entitled had the said road been constructed as provided in the act making the grant, have been sold by said company prior to January 1, A. D. 1884, the party or person so purchasing any of said lands, his heirs and assigns, shall have the right to the lands so purchased to the extent of 320 acres, upon making proof of the fact of such purchase before the register at the local land office of the district where said land may be located; and upon proof as above within twelve months of the passage of this act patents shall issue to the parties entitled thereto for the land; and in any case of purchase or settlement, as contemplated in this act, of more than 320 acres by each settler, the 320 acres to each settler may be selected by him within one year from the passage of this act, he filing the description of such selection at the proper land office or with the Commissioner of the General Land Office.

SEC. 2. That all persons who have made actual settlement or have made valuable improvements upon the odd-numbered sections adjacent to the said road or branch thereof, with or without contract of purchase therefor, with a *bona fide* intent to secure title thereto by purchase from said Northern Pacific Railroad Company when the said company had earned the same by compliance with the conditions and requirements of said act, or to acquire title to the same under the public-land laws of the United States, and being a citizen of the United States, or having declared his intention to become one in compliance with the naturalization laws of the United States, shall be entitled to enter one-quarter section of 160 acres each, of the lands so settled upon or improved by such person, under the pre-emption or homestead laws of the United States; and in case such person has exhausted his or her right under said laws, then and in that case such person may enter one-quarter section, of 160 acres, of the land so settled upon or improved, by paying therefor \$1.25 per acre.

SEC. 3. That the following words in act of July 2, 1864, section 2, "and the right of way shall be exempt from taxation within the Territories of the United States" are hereby repealed.

The SPEAKER. The question is upon the amendment proposed by the committee.

Mr. DUNHAM. How does this bill come here?

The SPEAKER. By report from the Committee on Public Lands.

Mr. DUNHAM. Then it goes to the Calendar, does it not?

The SPEAKER. It does not. The committee reports it under a rule of the House.

Mr. HENLEY. It is a privileged report.

The SPEAKER. The committee makes a privileged report, and asks its immediate consideration.

Mr. DUNHAM. How does it become privileged?

The SPEAKER. The rules of the House, clause 49, Rule XI, give to the committee the right to report at any time upon certain classes of bills.

Mr. DUNHAM. Do I understand that this is a substitute for a bill before the House?

The SPEAKER. The committee reports back a Senate bill with a recommendation that a substitute be adopted.

Mr. DUNHAM. Is it the Northern Pacific forfeiture bill?

The SPEAKER. It is. It has just been read.

Mr. DUNHAM. Is it in order to vote on the question at this time?

The SPEAKER. The bill is up for consideration unless the question of consideration be raised against it—it is before the House for a vote or for debate or amendment. [Cries of "Regular order!"]

Mr. DUNHAM. Has the bill been printed?

The SPEAKER. The Senate bill, as the Chair supposes, was printed; and the bill offered as a substitute appears to be in print.

Mr. DUNHAM. Has the amendment been printed?

The SPEAKER. It has.

Mr. HENLEY. Mr. Speaker, it would seem advisable to have some understanding about the limit of debate on this question. This bill is simply an amendment of the bill passed by the Senate. The distinctive difference between the Senate bill and the House bill is this: The Senate bill proposes to forfeit all the lands within the grant to the Northern Pacific Railroad Company from the town of Wallula, Wash., to the city of Portland, Oreg.

The House committee have recommended the amendment of that bill, including the forfeiture of the grant from Bismarck out to the Pacific Ocean.

Mr. Speaker, those are the distinctive features of difference between the two measures.

I should like now to hear from the other side; that is, from the opponents of this measure, if there be any, as to the limitation of this debate.

Mr. WEAVER, of Iowa. What is the difference as to the number of acres of land?

Mr. HENLEY. It amounts to somewhere between 33,000,000 and 34,000,000 of acres.

Mr. WEAVER, of Iowa. In favor of your bill?

Mr. HENLEY. Yes; in favor of the House bill.

Mr. WEAVER, of Iowa. This is the land the Government granted to the Northern Pacific Railroad?

Mr. HENLEY. Yes, sir.

Mr. WEAVER, of Iowa. Now, does he propose to take it back?

Mr. HENLEY. Yes, sir. Now, Mr. Speaker, in order to get the bill before the House so that we may have action at the earliest possible period, I ask by unanimous consent that all general debate be closed at 4 o'clock this afternoon. [Cries of "No!" "That is too long!"] Then I will amend by saying 3 o'clock.

Mr. VAN EATON. No; say 5 o'clock.

The SPEAKER. The gentleman from California asks that by unanimous consent the previous question shall be considered as ordered on this bill. Does the gentleman ask that it shall be ordered on the passage of the bill or on the engrossment and third reading of the bill?

Mr. HENLEY. On the passage of the bill.

Mr. VAN EATON. I wish to say a word, if I may be allowed to do so—

The SPEAKER. The gentleman from Mississippi has the right to make a suggestion.

Mr. VAN EATON. I favor the adoption of the Senate bill, and so far shall antagonize the gentleman from California. This is a matter of grave importance, and, I take it, ought to be discussed at length. Such time as members wish for its discussion ought to be allowed. It was discussed for nearly two weeks in the Senate. It is a matter of too grave importance to force it to a vote without both sides being fairly heard. I think it would be better not to fix a limitation to the debate at this time, but to allow it to run on for a time, and then after members have been heard on both sides we can with more judgment fix a time for closing debate.

Mr. HENLEY. It is quite true as stated by the gentleman from Mississippi, but the very fact the subject has been discussed so elaborately during the two weeks in the Senate furnishes an additional reason why we should not spend much time on the subject in this House. Members have undoubtedly informed themselves by perusal of those debates in the Senate and are prepared to vote on one side or the other. My proposition is that general debate be limited, and I therefore move that the previous question be called on the passage of the bill at 3 o'clock.

The SPEAKER. That can not be done. The gentleman can not move the previous question in advance. At any time he gets the floor he has the right to move the previous question.

Mr. HENLEY. I give notice, then, Mr. Speaker, that I will call the previous question at 3 o'clock this afternoon.

Mr. PAYSON. On the third reading and engrossment of the bill?

Mr. HENLEY. Yes, on the third reading and engrossment of the bill.

Mr. REED, of Maine. Does the bill make an appropriation of money or land?

The SPEAKER. On the contrary, it forfeits land to the United States.

Mr. REED, of Maine. If it can.

Mr. HENLEY. It is understood that the opponents of the bill are to have half the time allowed for debate.

The SPEAKER. The Chair will endeavor to recognize members alternately.

Mr. VAN EATON. I ask to be recognized as in control of the time on the other side.

The SPEAKER. The gentleman can not control the time. He will have one hour, of course.

Mr. REED, of Maine. He has his hour.

The SPEAKER. Yes; he will have his hour, and other gentlemen will get each his hour.

Mr. HENLEY. It will probably conform to the wishes of a number of gentlemen upon the floor if I request that members so desiring may have leave to print remarks in the RECORD on this subject.

The SPEAKER. Is there objection to allowing members to print remarks in the RECORD on this subject?

There was no objection, and it was ordered accordingly.

Mr. HENLEY. Mr. Speaker, it is proper I should submit some preliminary remarks.

The SPEAKER. The gentleman will proceed.

Mr. HENLEY. Mr. Speaker, I desire to submit some preliminary remarks in reference to this measure, and for the reasons which I hope to be able to outline to secure the favorable regard of the House in its behalf.

I am quite certain that I could do nothing better, that I could by no possibility better employ my time or my imperfect powers of advocacy in any way more directly responsive than this to the pledges of the national platform upon which the Democracy won its late victory and placed in the Presidential chair that calm, self-poised, self-reliant man and statesman who now illustrates the highest tenets of its faith and upholds its loftiest traditions.

Sir, a simple invocation to members of this House to discharge a plain duty, to vindicate a solemn promise, solemnly made by the chosen representatives of the dominant party of this mighty nation in convention assembled at Chicago, could not assume a more impressive shape than by this bill, which proposes to wrest from the clutch of corporate rapacity 35,000,000 of acres of the public domain and turn them over to those from whom they were originally taken and to whom, by reason of the breach of the conditions of their bestowal, they now rightfully belong—the people of this Union of American States.

To the discharge of this high, this imperative, this necessitous duty, to its discharge in a manner and with that unanimity that shall leave no doubt that gladly and freely and cordially we do it, I now invoke the patient and earnest consideration of this House. And, sir, speaking in this regard at least for the Representatives of the Democracy on this floor, I may be permitted to say that with a purpose of showing the world that there was no disposition to dally or palter with the obligations of this lofty duty we have first presented for forfeiture the most valuable of all of the grants that was ever made in the history of this Government, the Northern Pacific.

Now, let me be understood. I say again that in order to make the test in respect to the forfeiture of land grants crucial, to the end that all doubt should be dispelled from the mind of every human being on earth desiring to be informed thereon as to the honesty and earnestness of the promises contained in our platform, we have selected for our first action the largest and most valuable grant of land that any government has made probably for two hundred years to a corporation, and which from its immensity and its almost incalculable value has, according to report, brought into play for its perpetuity and to defeat its forfeituous multitudinous agencies, powerful influences, and every meretricious method of controlling legislation that could be devised.

To give an adequate conception of the vastness of this grant I will state that it reaches from Lake Superior to Puget Sound on the Pacific Ocean, embraces 12,800 acres of land for every mile of railroad built in the States and 25,600 acres for every mile built in the Territories, and amounts to about forty-seven millions of acres, worth, at the lowest calculation, \$4 per acre, making a grand aggregate of \$188,000,000.

Including its indemnity limits, by this grant Congress ceded to this corporation the absolute power to exclude, as a trespasser, any American citizen who should attempt to set his foot within one-half of a scope of country reaching across the continent from one of our great lakes to the Pacific, being 2,000 miles in length and 120 miles in breadth in the Ter-

ritories and 100 miles in the States. It is larger than the State of Indiana multiplied by nine; larger than France.

Well has one of our great statesmen, Senator Casserly, of California, speaking in the Forty-first Congress of the magnitude of this grant, said:

Sir, it is not much to say that no such grant was ever before made by our Government. None such has been made within the last one hundred and fifty or two hundred years by any government in Europe to any private corporation, nor indeed to any grantee. No emperor or minister there to-day, however secure his power, would venture on such a spoliation of his country. Considering the wide difference between to-day in the United States, with all its golden promise, and a hundred years ago in India, I greatly doubt whether the grant made in 1864 to the Northern Pacific Railroad Company is not equal in all real elements of wealth, prosperity, and power to the vast Indian possessions held in the latter part of the last century by the East India Company, the mightiest chartered company the world has ever seen, or I hope will ever see again.

Mr. Speaker, it is upon this grant, environed and buttressed by so many of the potentialities ever arrayed in behalf of great wealth, that we propose to make the test of our fidelity to the platform upon which we solicited the votes of the American people in the late political campaign.

"This grant," we said to the people, "will afford roof and livelihood to homeless millions; in an hour of reckless or criminal improvidence, or overpowered and subdued by the artful solicitations of the myriads of corporate power, Congress gave this, your heritage, away; restore to us the supremacy, and we will give you back your land, whereon you may make your homes." The people, believing in our sincerity, gave us a majority in this House, and now the hour for the redemption of our pledge has arrived, and by the passage of this bill more than any other before the House that act may be consummated.

#### PROMISES IN PLATFORMS.

I beg to pause right here to advert somewhat to this matter of promises made in political platforms. A great English jurist and philosopher, Lord Brougham, upon a memorable occasion in defending his queen against an accusation involving her honor, involving her right to be received among the reputable matrons of England, in a burst of inspirational eloquence declared that a lawyer's duty to his client should be held paramount to every other earthly consideration; fame, fortune, life, property, even one's country, should be subordinate to the one great object, namely: the successful issue of the litigation or other matter in hand.

In my humble judgment there is one other duty of equal solemnity, of loftier dignity, whose obligation can never be forgotten without a forfeiture of self-respect, nor ignored without personal dishonor. I mean that deathless devotion that a public officer owes to his constituency. This he never, never should forget. This, whenever he does forget, he thereby is self-decreed to political outlawry; this, if he be a man of rectitude of character, he can not forget; it should be ever present to him to guide, control, and dominate his public acts. He should have no wish that does not emanate from his constituents; and no hope that is not born of a free and frank communion with them; and no aspiration that does not spring from a constant and fervid desire to do the very thing that he has promised them to do.

It is the custom of political parties to require of their candidates pledges. These pledges are ordinarily contained in the party platforms of the conventions nominating the candidates. No compulsion is used to make a man run for office, and if he can not stand on the platform he should decline the nomination. But if he does accept, then he pledges-himself thereby to support the platform—a pledge from which no power short of Omnipotence can absolve him, except the reassembling of another convention of his party. But suppose he does violate his pledges; suppose that being instructed by his platform to do a certain thing, he does another and a different thing, what then? You can not punish him by the instrumentality of sheriff, juries, or courts; he has violated no penal statute, and is not amenable to indictment or trial.

What then should be done in such a case? Sir, the only available remedy is to make such recreant feel the weight of a people's wrath in some other way; and I declare here and now that he who being elected by the people to office upon a platform suffers himself to be beguiled by any means or any agency or influenced to a betrayal of these pledges should be burned with a brand so that he may be known of all men, a "fixed figure for the time of scorn to point its slow unmoving finger at;" he should be forever pilloried in the stocks of infamy and shame.

Mr. Speaker, every party that ran a ticket in the late campaign pledged itself to the forfeiture of railroad land grants—Democratic, Republican, Prohibition, and Greenback Labor parties—all by their platforms recognized the widely prevalent, in fact the universality, of the desire of the people for this legislation, and pledged themselves to that end. In truth, it is about the only great question upon which all parties united in their professions and promises.

We of the Democracy pointed to the record of the Republican party, which showed that in thirteen years, namely, from 1860 to 1873, that party had given about 180,000,000 acres of the public domain to corporations, while the entire amount given before then during the history of the Government extending over a period of ninety-seven years was but 30,000,000. We drew public attention to the shameful sat-

urnalia of maladministration and corruption that were the natural concomitants of these vast and prodigal gratuities, all of which was in apt and truthful phraseology described in the Senate by a distinguished Republican, Hon. G. F. HOAR, from whose speech I quote one paragraph:

When the greatest railroad of the world, binding together the continent and uniting the two great seas which wash our shores, was finished, I have seen our national triumph and exultation turned to bitterness and shame by the unanimous reports of three committees of Congress—two of the House and one here—that every step of that mighty enterprise had been taken in fraud.

These things we dwelt upon in every town and city, in every hamlet and at every cross-roads in the land, and my judgment is, that it was the confidence that our record and our promises created in the people's mind, more than any other one thing, that reinstated us in the political supremacy after so many years.

PROPOSITIONS OF LAW CONSIDERED.

Now, sir, as to certain legal propositions. I beg the House to remember that we are merely acting as trustees in our dealing with the public lands and that the duty of a trustee prohibits the exercise of generosity or the play of those delicate sensibilities by which we might be animated were we acting for ourselves. These lands belong to the people, and we as trustees are only permitted to stand upon the law.

Another thing that should never be lost sight of. In the interpretation of a public grant its provisions are always to be construed most strongly against the grantee, reversing the rule which obtains in reference to grants from one private party to another.

The consideration of the case involves two general and leading questions: First, the power of Congress to declare a grant of public lands forfeited for breach of condition-subsequent; second, whether, this power being established, there are any features in this particular case excepting the grant from the general rule.

The power of Congress to declare forfeited a grant of the public lands, made to either a corporation or a State, by an act containing a clause providing that the lands should revert upon failure to build the road within a specified time, is established beyond all controversy by repeated decisions of the Supreme Court.

It is specially so held in *United States vs. Repentigny* (5 Wall., 211) and *Schulenburg vs. Harriman* (21 Wall., 44).

Following these cases is another which even more unequivocally defines the power of Congress in this regard. In *Farnsworth vs. Minnesota and Pacific Railroad Company* (92 U. S., 66), the court, considering the question, said:

A forfeiture by the State of an interest in lands and connected franchises granted for the construction of a public work, may be declared for non-compliance with the conditions annexed to their grant or their possession, when forfeiture is provided by statute, without judicial proceedings to ascertain and determine the failure of the grantee to perform the conditions.

Following these authoritative expositions of the law, as well as the reasons and sense of the principle involved, your committee have uniformly held that jurisdiction existed in Congress to declare these grants forfeited and have reported several bills to accomplish that purpose, some of which have already passed the House. We adhere to this position in the case under consideration.

The question turns upon a consideration of sections 3, 5, 8, and 9, hereinbefore quoted. The company claim that they constitute an absolute dedication of the lands to the purpose of constructing the road; and that the only power in the United States is the power through Congress to adopt such measures as may be necessary to insure the completion of the road in case the company does not build it.

On the other hand, I regard this construction as utterly untenable, and am of the opinion—

1. That section 8 of the act declares a condition-subsequent, namely, that the road shall be completed within a certain time, upon breach of which the grantor may declare a forfeiture.

2. That section 9 is in no way repugnant to section 8, but while embracing all that is included therein, and to that extent perhaps cumulative, is also, in connection with section 5, a declaration of further and additional conditions-subsequent, for breach of which Congress may interfere to protect the rights of the United States.

3. That under either of said sections, or both together, the United States, by Congress, has the right to declare the grant forfeited for failure to build the road within the limitation.

Section 8 is perfectly plain in the language used and the purpose contemplated. It declares in so many words that the grant made is given by the United States and accepted by the company "subject to the following conditions, namely, that the said company \* \* \* shall construct, equip, furnish, and complete the whole road," &c. This is too plain for any construction. Congress intended to provide, and did provide, that the road should be completed within a certain time, and that that should be a condition of the grant. If a condition, the grant is determinable upon its breach, at the option of the grantor.

The argument of the company rests upon the absence of express words declaring a reversion in case of the breach. The estate, so conditioned, is created by declaring the condition, not by declaring the result of its breach. The latter, re-entry or its equivalent, follows as matter of legal effect. Every lawyer knows the result of a breach of condition-subsequent, and the statement of that result in any grant

adds nothing to the previous description of the estate created. The land does "revert" by operation of law upon the breach being enforced by re-entry or its equivalent; but the right to that re-entry depends upon no express provisions that the land shall revert. It stands upon the condition declared and its breach. Upon this point I beg to quote from the report of the Public Lands Committee, made at this session of Congress, upon the bill forfeiting the Texas Pacific land grant, reported to the House by Judge PAYSON:

In other words, generally stated, the distinguished counsel for the company declares that in law the power to declare a forfeiture of a grant made on condition-subsequent for breach of the condition must be reserved to the grantor by express terms in the act making the grant, or it does not exist.

No authority was produced to the committee except the statement of the attorneys asserting this extraordinary doctrine in support of it; but the interest being so great, we have examined the books on the question, and are not able to find a single authority in support of the proposition, and we believe none can be found.

On the contrary, Washburn on Real Property (vol. 2, 3d ed., p. 15) asserts the rule to be: "Where the condition of a grant is express there is no need of reserving a right of entry for a breach thereof in order to enable the grantor to avail himself of it." See also Jackson vs. Allen (3 Cowan, 220; Gray vs. Blanchard, 8 Pic., 284; Littleton, sec. 331.)

Indeed, all the decided cases we can find, as well as the text-books, are in harmony and to the same effect; so we do not present argument upon it here.

The estate is created by proper words of description declaring the condition, and the legal effect of what follows the breach is exactly the same whether it be described in the grant or not. Thus in the case under consideration the estate upon condition is created by the specific language used. The legal effect of reversion follows the breach and declaration of forfeiture. No provision that the land should revert was necessary, and if added would simply have described the legal result of what preceded it.

The Touchstone, page 122, thus describes the operative words creating an estate upon condition:

Conditions annexed to estates are sometimes so placed and confounded among covenants, sometimes so ambiguously drawn, and at all times have in their drawing so much affinity with limitations, that it is hard to discern and distinguish them. Know, therefore, for the most part, conditions have conditional words in their frontispiece, and do begin therewith, and that among these words there are three words that are most proper, which in their own nature and efficacy, without any addition of other words of re-entry in the conclusion of the condition, do make the estate conditional, as proviso, *ita quod* and *sub conditione*.

Washburn, in his work on Real Property, marginal page 42, says:

Among the forms of expression, which imply a condition in a grant, the writers give the following: "On condition," "provided always," "if it shall so happen," or "so that the grantee pay, &c., within a specified time," and grants made upon any of these terms vest a conditional estate in the grantee.

When the condition of a grant is express, there is no necessity of reserving a right of entry for breach of the condition in order to enable the grantor to take advantage of it. (*Jackson vs. Allen*, 3 Cow., 220; *Gray vs. Blanchard*, 8 Pic., 284.)

That the words "upon condition," and even words less specifically expressing the intent, are construed as establishing an estate upon condition-subsequent, without further description, is shown by many authorities. (*Littleton*, pp. 228, 329, 330, *Com. Dig. Condition A 2*; *2 Wood, Com. Powell's ed.*, 505, 512, *et seq.*; *Wheeler vs. Walker*, 2 Conn., 201; *Thomas vs. Record*, 477 Me., 500; *Sharon Iron Co. vs. Brin*, 41 Penn. St., 341; *Taylor vs. Cedar Rapid R. R. Co.*, 25 Iowa, 371; *Attorney-General vs. Merrimack Co.*, 14 Gray, 612; *Hadley vs. Hadley*, 4 Gray, 145; *Rawson vs. School District*, 7 Allen, 128; *Caw. vs. Robertson*, 1 Selden, 125; *Pickle vs. McKissick*, 21 Penn. St., 232; *Hooper vs. Cummings*, 45 Me., 359; *Chapin vs. School*, 35 N. H., 450; *Wiggin vs. Berry*, 2 Foster, 114; *Hayden vs. Stoughton*, 5 Pick., 534; *Wright vs. Tuttle*, 4 Day, 326.)

Authorities upon this point might be multiplied. It is the construction of principle and authority, and your committee have been referred to no case which in their judgment militates at all against the position here assumed. The Touchstone, at page 122, immediately following the quotation which we have made, is suggested as modifying the authority of the citation in its applicability to the case under consideration. But no such effect can possibly be given the language used. After stating the broad proposition quoted, the writer proceeds to say that although the words mentioned are "the most proper words to make conditions," yet that they are sometimes used for other purposes. He then points out instances where the word "proviso" in certain particular relations may be given a different meaning.

But the entire discussion is limited to that particular word—does not once mention the words "*sub conditione*" or name a single instance where they are used in a sense contrary to the general rule, and even in respect to the word "proviso" the exception could not apply to the case under consideration, for it is expressly limited to a use of the word where it does not stand "originally, by and of itself."

The other authorities to which I have referred are not in any sense repugnant to the view of the law I adopt. They are few in numbers, and at the best simply hold that these apt words may, in certain instances, be restricted by immediate reference to other portions of the deed clearly expressing a different intent in the grantor. That this is true is not denied; but it does not change the general rule, and its applicability to the case under consideration will more properly be noticed hereafter.

I am, therefore, clearly of the opinion that section 8 of the act, by

the express language used, created an estate upon condition-subsequent, forfeitable upon breach of the condition.

FINANCIAL MANIPULATION.

As to the financial features attendant upon the construction of this road I can do no better than quote from a speech made in the Senate this session by that stalwart and able champion of the people's rights, Hon. J. Z. GEORGE, of Mississippi. The Senator, speaking of the reorganization that took in the company in 1875, and after showing how the corporators allowed ten long years to pass by without sticking a spade in the ground or without making any visible effort to build the road, said:

Then came reorganization; and how did they reorganize? With only 530 miles of road completed, this is the way they reorganized: they reorganized by issuing to the bondholders \$30,000,000 which had been spent on building these 530 miles of road in preferred stock guaranteed to pay 8 per cent. interest and \$21,000,000 more of preferred stock—\$51,000,000. Then what became of the balance? They could not give up this magnificent empire, and so they issued \$49,000,000 of common stock to the stockholders.

My friend from Texas [Mr. COKE] a few days ago told us something of the watering of stock by the railroads of this country. I do not know whether he referred to this company or not. If he did not, when he has occasion again to say as he did then in eloquent and strong pointed language anything about the watering of stock he ought to talk about this. All other waterings of stock were mere little dews falling on the morning grass to vivify and make it fresh; but here, when the stockholders had never paid a cent, as was charged by Mr. Thurman in his speech, and he challenged Senators on the other side to show that they had ever paid a cent, they turned loose a Niagara of water into the stock of this corporation—\$51,000,000 of preferred stock and \$49,000,000 of common stock, \$100,000,000 to represent 530 miles of completed road!

Mr. President, that is not all. Here is \$100,000,000 to represent 530 miles of road, just \$25,000,000 more than the Commissioner of Railroads estimates as the cost of the whole 2,000 miles.

Now let us see what else they did. This \$100,000,000 of stock, preferred and common, represented \$188,698 a mile of railroad built. The line built was the easiest in the world. One Senator said they had nothing to do but to stick a spade in the ground and level it a little and put the cross-ties on, and the Commissioner of Railroads put the cost at \$28,000 a mile. That left \$160,000 of stock to each mile of the railroad for \$28,000 a mile of actual expenditure.

That was not all. They were entitled on the 530 miles to a land grant and nobody proposed to take it away from them. That land grant amounted to 10,518,756 acres. At \$1 an acre—and they sold their lands at that, and those 530 miles of road were in the best part of the country, as I understand—its value was \$42,075,000, or at the rate of \$78,000 a mile for a road which ought not to have cost and did not cost over \$28,000 a mile.

A land grant worth over twice the cost of the road and \$100,000,000 of stock were the proceeds of this first operation on the property of the American people; and yet we are told that we are bound in good faith or we are bound by some sort of generosity on subjects of this sort to waive the right of the American people in order that the men who captured 530 miles of this railroad and this enormous sum may capture still more. The company reported that it cost them \$40,000 a mile to build the road.

Mr. VAN WYCK. At what time was that report?

Mr. GEORGE. They reported that the first 530 miles cost \$40,000 a mile.

Mr. VAN WYCK. Allow me right there to say that in 1872 there was an investigation ordered in regard to this road by the House of Representatives, if it is proper to refer to it.

Mr. TELLER. That was a past House. You can refer to that.

Mr. VAN WYCK. In that investigation this question was put:

"What has been the total cost of the work done, and the cost per mile; first, for the eastern division; second, for the western division?"

This was to Mr. J. Gregory Smith, president of the Northern Pacific at that time.

"Answer. The roadway and superstructure on 229 miles of the eastern end of the road cost \$5,397,843, or \$23,571 per mile; the same for the 25 miles on the west end of the road cost \$714,000, or \$28,560 per mile. All the elements of railroad construction cost more on the Pacific slope than on the Atlantic slope."

Mr. GEORGE. Is that their own report?

Mr. VAN WYCK. That is the sworn statement of Smith, the president of the road in 1872.

Mr. GEORGE. I have no doubt that was ample, and I was going further to quote the Commissioner of Railroads.

Mr. McPHERSON. Allow me right there—

Mr. GEORGE. No, sir; I prefer to go on. I am very much disposed to oblige everybody, but I shall never get through if I keep on yielding; and I am getting weary, and I prefer to go on. I would yield to the Senator from New Jersey as soon as to anybody living, but I want to get through.

The PRESIDENT *pro tempore*. The Senator from Mississippi declines to yield.

Mr. GEORGE. They charge \$42,000 a mile in the report. I will show you how they made up that charge. It appears that in this \$42,000 a mile was \$1,108,278.52 or \$1,900 a mile for surveys. That is a good deal for surveys of 530 miles, and it would almost build the road. The equipment was put at \$2,434,346, a pretty extensive equipment, indicating, if it was an honest and just amount, the doing of an immense business on the 530 miles of railroad. Then there was \$2,728,346.25 which they expended for what they called "auxiliary railroad and water lines," which they had no right, as far as I can see, to expend.

I understand that stock represents money paid into the corporate treasury. Is that right, I ask the Senator from Texas [Mr. COKE]? He nods assent. Stock represents money paid into the treasury of the corporation. Then at the end of 530 miles, with all these magnificent land grants, they had \$100,000,000 stock, and according to the estimation of the Commissioner of Railroads only \$75,000,000 was necessary to complete the entire road for 2,000 miles.

I think that even these poor men who happened to be so unfortunate as to get all these magnificent grants from Congress ought to have been satisfied with the gains they had then made. But suppose we go on and give them all they ask, still let us see how they will come out. Their grant, as estimated by the Commissioner of Railroads, amounts to 42,000,000 acres of land, or 65,620 square miles—a little more than twice the size of the State of Indiana, about as large as the State of Indiana and the State of Ohio combined. An empire the size of these two great States is the game for which the Northern Pacific is playing now in the American Congress and before the American people.

The Railroad Commissioner estimates these lands in 1881 as follows: They had sold, up to the 30th of June, 1880, 2,600,000 acres of this land, for \$9,000,000, about \$4 an acre. The rest of this land, estimated at \$2.50 per acre by the Railroad Commissioner, amounts to \$99,750,000; total, \$108,750,000; and then the watered stock of \$100,000,000; when the whole cost of the road did not exceed \$75,000,000.

Now, Mr. President, I want to put before the Senate and the country some thing about the character of this railroad. Gentlemen talk about it being built

over mountains and through a vast desert plain and all that sort of thing, and tell us that the immense cost justified these enormous drafts. I will read from the report of the Commissioner of the General Land Office in 1869:

"The Northern Pacific presents as one of its strong claims to public attention its comparatively low summit levels. It proposes to cross the Cascade Mountains in Washington Territory by the Snoqualmie Pass, 3,000 feet above sea level, and the highest range of the Rocky Mountains by Cadotte's Pass, whose elevation of 6,167 feet may be reduced to 5,337 feet by a tunnel 2½ miles long. Blodgett's charts show that the respective points where the Northern Pacific and the Union Pacific pass the main range of the Rocky Mountains are on nearly the same winter isothermal parallel of 20° Fahrenheit, with about the same winter temperature on the adjacent plains and foot-hills, and with a summit level at Cadotte's Pass."

"That is on the Northern Pacific—

"Three thousand feet lower than that at Evans's Pass"—

Which is on the Union Pacific Railroad. The Commissioner continues:

"The Northern Pacific offers a pretty safe guarantee against these formidable obstructions from snow which the more southern route has already experienced. The Northern Pacific route claims to be the shortest and most central from the tributary waters of the Atlantic and Pacific Oceans."

Then, speaking of the company, he says:

"The undeveloped resources of this company are attracting the attention of capitalists. Its landed subsidy is double that of the Union Pacific road. Comparatively a very small proportion of its line runs through an elevated region. Governor Stevens was of the opinion that not more than one-fifth of the land from Red River to Puget Sound is inarable"—

Not fit for cultivation—

"and that this is largely made up of mountains covered with valuable timber."

Says the Commissioner:

"It is evident that an immense agricultural area is here awaiting development. The great wheat-growing regions, on the left bank of the Upper Missouri, promise speedy settlement upon the opening of an avenue for the transportation of their products to market."

That is the kind of country, four-fifths of it arable, a great wheat-producing country.

The foregoing clearly shows that this company have no ground to complain of the severity of this measure; that in fact they have never spent one dollar of their own money and have built the entire road from Government bounty.

DANGERS OF MONOPOLY.

Nearly one year to-day I addressed an audience in the city of San Francisco, and I am prompted right here to read an extract from that speech.

In 1836 Jackson aroused the people to the danger of monopoly in a message that rang like the peal of a clarion from end to end of this continent. He solemnly admonished them that their dearest rights and liberties were menaced by the great monopolistic power of that day, namely, the United States Bank. He removed the deposits and vetoed the bill rechartering the bank. Then came the mighty contest, the shock of which rocked our political fabric to its foundation. As Judge Black says of it, Jackson knew the corporators had done wrong and he would make no compromise with wrong. Do not we know our corporators have done wrong, and, if so, shall we daily or compromise with wrong? Nothing was spared to swerve him from his lofty purpose. But his steadfast and unquailing heart never knew a pulsation of doubt. The bank suddenly withdrew her discounts and pressed her debtors. This created widespread distress and ruin, and the bank pointed to Jackson as the prime cause. Committees from all over the Union waited upon him, protesting against his course; bitter complaints assailed him on all sides; two-thirds of the press, three-fourths of the orators, abused him with an acrimony of temper and a variety and recklessness of assault never before equaled; violence and assassination were threatened, but there stood Jackson, "constant as the Northern Star, of whose true, fixed, and resting quality there is no fellow in the firmament."

Well has his great eulogist Judge Black said of him: "The electric chain of communication between him and the people was still unbroken, and whatever link of that chain was struck by his master hand the response was a deep thrill of sympathy from the hearts of millions. His steady and fearless voice was ever heard above the din of conflict and it went over the land like the tones of a trumpet ringing full on the ear, banishing doubt, inspiring confidence, and swelling the hearts of the people with a foretaste of victory."

He pointed out the incalculable power wielded by those moneyed institutions with their \$35,000,000 of capital, and controlling \$70,000,000 of indebtedness. The danger, at that time, was tangible, ominous, and it startled the nation by its gigantic proportions. It was promptly grappled, met by that intrepid old hero and those whom he marshaled in his train, beaten down, and overthrown. If the danger really existed at that time, what shall be said of that which threatens us to-day? Thirty-five million dollars appalled the stout heart of Jackson.

A combination representing hundreds of millions have inaugurated the crusade against your rights and liberties, and it reaches out with the arms of the fabled Briareus in countless directions. It is seen in every phase of life that confronts us—moral, social, political. In the highways, in the marts of commerce, in the counting-house and shop, at the fireside, in every pursuit, trade, and avocation, the sorcery of this all-prevailing and infernal influence is felt. It is as widespread as the winds, and its universality is as the light of the opening of day. You have seen it, as we all have; you have seen what you have presumed to be the keenest sense of honor, the highest obligations, the most solemn ties of gratitude or friendship, the dearest affections, everything that you revere, love, or cherish, fade and wither at the touch of corporate power or like the flower before the sirocco's breath; while laws, ordinances, and constitutions are but as cobwebs in the pathway of its consuming desires.

I defy contradiction upon the asseveration. It is within the knowledge and profound belief of every one who listens that these corporations have habitually, by money, controlled primary elections, suborned conventions, and purchased Legislatures ever since their origin, and now I ask you, my countrymen, how long this thing shall last. It is a disgrace that burns so deeply, an iniquity so monstrous that upon every side it uprears its crest and challenges our attention in tones that we dare not deny. [Loud applause.] Of course, in addressing you thus, I know what the penalty is going to be. It will be fraught with nothing that I can contemplate with unconcern. The assaults upon me will intensify in fierceness, but through no merit or seeking of my own, the logic of events has cast upon me a duty from which I can not escape without dishonor, and I shall take no step in retrogression, come what may. And I confess to you that I do not say this without trepidation. I know the power of constant, unsparring, and remorseless detraction. I know what it has accomplished in former times and with others, and I have no reason to doubt of its malign efficacy to-day. I may, and probably will, be finally overborne, find myself circumvented, baffled, with my influence and power destroyed or materially abridged; but somebody else will be my successor, able, more capable, and will find some of the work already accomplished.

Besides, my overthrow is of trivial moment and does not weigh even as the dust in the balance compared with those mighty issues, the evolution of which

now progresses and will soon confront with solemn and portentous aspect for permanent solution this American people. The brutal and arbitrary exercise of power, the scornful disregard by its possessors of the rights of those who are enthralled from the beginning of time, has brought upon itself, sooner or later, atonement, expiation, justice. Lurid, dark, and ghastly, we summon from the chambers of our memory a recollection of the unimaginable excesses of the French Revolution, when for eighteen never-to-be-forgotten months the streets of Paris were red and slippery with carnage, and, as a writer describes it, "the sun's eye had a sickly glare and the world grew faint with horror." Abnormal causes produce like results.

The signs of the times are not to be mistaken; mutterings of discontent are heard throughout the land; a cloud heavy and dark with a people's wrath, overspreads the sky, and the red bolt of retribution threatens soon to descend and scathe these transgressors. In many States besides our own the law has been cloven down and lies prone beneath the parted and satanic hoof of corporate insolence and greed. But time wears apace; the handwriting upon the wall is visible, but not, my friends, by violence or the inauguration of chaos—not in the wild swirl of physical strife nor with the concomitants of havoc or the destruction of property, but peacefully, calmly—with that majesty that befits a great cause; but inexorably these corporations will be reduced to subordination, to justice, and to law. And this revolution, though peaceful, is, as I have said, near at hand. "It comes with a force that nothing can stay; a force that is so stupendous that it can only be likened to the great ocean when it lifts itself beneath a darkened sky and a rolling thunder and resists everything short of the Supreme Power with an elemental force and fury that defies the expedients of carping man."

Never again say, as I have heard said: "Don't quarrel with the railroad, temporize with them or with money they will beat us." Oh, fatal, false, perfidious words! Even if they were true, could they speak who have gone before us, who have passed to the "realms of shade," they would tell us as our own manhood tells, that better, a thousand times better, to go down fighting like free men, than to live in servitude, than to live lifting to the gaze of mankind our wrists encircled with the galling manacles of a willing degradation. [Loud and continued applause.] But it is not true. The fear is begotten of abjectness and cowardice. Never tell me that the gallant, free, chivalric, hospitable, cultivated people of America are, when the battle comes, to be dragged at the chariot wheels of monopoly, and that money has so debauched or demoralized their lofty, imperial manhood. Never say that money can control our elections. The record belies the assumption. Whenever the test has been fairly made the corporations have been defeated. Their impotency was demonstrated in last election, when money was lavished without stint, and every one for sale was purchased. He lies in his throat and slanders our people who asserts it. And I deny it. In the name of an educated, Christianized people I deny it; in the name of bright-eyed Truth; in the name of the dauntless, invincible spirit of Democracy; in the name of the on-rushing, stalwart, ever-progressive genius of American civilization, I deny this allegation, and denounce it as the slanderous outgrowth of either the hopeless pessimist or corporation cynophant.

Therefore I say again to you, my friends, stop this folly. Tear from your bosoms this loathsome fetishism, this frightful superstition, which has lured you on and on until you have found yourselves prostrate before an idol false as hell, fouler to the sight than the beast of the Apocalypse, and whose votaries can not worship at the same shrine with freemen, whose ministrations are death to free government, and the incense from whose altar is a poisonous stench in the nostrils of Democracy. [Cheers.] Together then let us gird up our loins; together we will storm the temple of this base and paltry idol. Aye, by the beard we will drag him from his unclean sanctuary, disrobed and unaccepted; and then this grand constellated sisterhood of States will look upon the vision prefigured by the blazing genius of Milton: "Methinks I see a noble and puissant nation arousing herself like a giant and shaking her invincible locks; methinks I see her as an eagle, renewing her mighty youth and kindling her undazzled eyes in the full midday beam."

Sir, as we have seen in other days and generations, humanity has been beaten down, humiliated, and oppressed, and has finally turned upon their oppressors. From the speech of the eloquent Senator from Louisiana [Mr. EUSTIS] I am furnished a suggestion. I am minded, sir, to read a page from that wizard of literature, Charles Dickens, in his wonderful creation entitled *A Tale of Two Cities*. While something may be conceded to the advance of thought and the humanizing tendencies of widely disseminated education, yet the railway magnate of to-day, in his disregard of natural right and the imperial reach of his ambition and sway, presents many points in common with his predecessor, the marquis of the last century.

Yes. It took four men, all four ablaze with gorgeous decoration, and the chief of them unable to exist with fewer than two gold watches in his pocket, emulative of the noble and chaste fashion set by Monseigneur, to conduct the happy chocolate to Monseigneur's lips. One lackey carried the chocolate pot into the sacred presence; a second milled and frothed the chocolate with the little instrument he bore for that function; a third presented the favored napkin; a fourth (he of the two gold watches), poured the chocolate out. It was impossible for Monseigneur to dispense with one of these attendants on the chocolate and hold his high place under the admiring heavens. Deep would have been the blot upon his escutcheon if his chocolate had been ignobly waited on by only three men; he must have died of two.

Monseigneur had been out at a little supper last night, where the Comedy and the Grand Opera were charmingly represented. Monseigneur was out at a little supper most nights, with fascinating company. So polite and so impressive was Monseigneur, that the Comedy and the Grand Opera had far more influence with him in the tiresome articles of State affairs and State secrets, than the needs of all France. A happy circumstance for France, as the like always is for all countries similarly favored—always was for England (by way of example) in the regretted days of the merry Stuart who sold it.

Monseigneur had one truly noble idea of general public business, which was, to let everything go on in its own way; of particular public business, Monseigneur had the other truly noble idea that it must all go his way—tend to his own power and pocket. Of his pleasures, general and particular, Monseigneur had the other truly noble idea, that the world was made for them. The text of his order (altered from the original by only a pronoun, which is not much) ran: "The earth and the fullness thereof are mine, saith Monseigneur."

Yet Monseigneur had slowly found that vulgar embarrassments crept into his affairs, both private and public; and he had, as to both classes of affairs, allied himself perforce with the Farmer-general. As to finances public, because Monseigneur could not make anything at all of them, and must consequently let them out to somebody who could; as to finances private, because Farmer-generals were rich, and Monseigneur, after generations of great luxury and expense, was growing poor. Hence Monseigneur had taken his sister from a convent, while there was yet time to ward off in the impending veil, the cheapest garment she could wear, and had bestowed her as a prize upon a very rich Farmer-general, poor in family. Which Farmer-general, carrying an appropriate cane with a golden apple on the top of it, was now among the company in the outer rooms, much prostrated before by mankind—always excepting su-

perior mankind of the blood of Monseigneur, who, his own wife included, looked down upon him with the loftiest contempt.

Monseigneur having eased his four men of their burdens and taken his chocolate, caused the doors of the holiest of holiests to be thrown open, and issued forth. Then, what submission, what cringing and fawning, what servility, what abject humiliation! As to bowing down in body and spirit nothing in that way was left for Heaven—which may have been one among other reasons why the worshippers of Monseigneur never troubled it. Bestowing a word of promise here and a smile there, a whisper on one happy slave and a wave of the hand on another, Monseigneur affably passed through his rooms to the remote region of the Circumference of Truth. There, Monseigneur turned, and came back again, and so in due course of time got himself shut up in his sanctuary by the chocolate sprites, and was seen no more.

Its owner [the marquis] went down-stairs into the court-yard, got into his carriage, and drove away. Not many people had talked with him at the reception; he had stood in a little space apart, and Monseigneur might have been warmer in his manner. It appeared, under the circumstances, rather agreeable to him to see the common people dispersed before his horses, and often barely escaping from being run down. His man drove as if he were charging an enemy, and the furious recklessness of the man brought no check into the face or to the lips of the master. The complaint had sometimes made itself audible, even in that deaf city and dumb age, that in the narrow streets without footways the fierce patrician custom of hard driving endangered and maimed the mere vulgar in a barbarous manner. But few cared enough for that to think of it a second time, and in this matter, as in all others, the common wretches were left to get out of their difficulties as they could.

With a wild rattle and clatter, and an inhuman abandonment of consideration not easy to be understood in these days, the carriage dashed through streets and swept round corners, with women screaming before it, and men clutching each other and clutching children out of its way. At last, swooping at a street corner by a fountain, one of its wheels came to a sickening little jolt, and there was a loud cry from a number of voices, and the horses reared and plunged. But for the latter inconvenience the carriage probably would not have stopped; carriages were often known to drive on, and leave their wounded behind, and why not? But the frightened valet had got down in a hurry, and there were twenty hands at the horses' bridles.

"What has gone wrong?" said Monsieur, calmly looking out.

A tall man in a nightcap had caught up a bundle from among the feet of the horses, and had laid it on the basement of the fountain, and was down in the mud and wet, howling over it like a wild animal.

"Pardon, Monsieur the Marquis!" said a ragged and submissive man, "it is a child."

"Why does he make that abominable noise? Is it his child?"

"Excuse me, Monsieur the Marquis—it is a pity—yes."

The fountain was a little removed; for the street opened, where it was, into a space some 10 or 12 yards square. As the tall man suddenly got up from the ground, and came running at the carriage, Monsieur the Marquis clapped his hand for an instant on his sword-hilt.

"Killed!" shrieked the man, in wild desperation, extending both arms at their length above his head and staring at him. "Dead!"

The people closed round and looked at Monsieur the Marquis. There was nothing revealed by the many eyes that looked at him but watchfulness and eagerness; there was no visible menacing or anger. Neither did the people say anything; after the first cry they had been silent, and they remained so. The voice of the submissive man who had spoken was flat and tame in its extreme submission. Monsieur the Marquis ran his eyes over them all, as if they had been mere rats come out of their holes.

He took out his purse.

"It is extraordinary to me," said he, "that you people can not take care of yourselves and your children. One or the other of you is forever in the way. How do I know what injury you have done my horses. See! Give him that."

He threw out a gold coin for the valet to pick up, and all the heads craned forward that all the eyes might look down at it as it fell. The tall man called out again with a most unearthly cry, "Dead!"

He was arrested by the quick arrival of another man, for whom the rest made way. On seeing him, the miserable creature fell upon his shoulder, sobbing and crying, and pointing to the fountain, where some women were stooping over the motionless bundle, and moving gently about it. They were as silent, however, as the men.

"I know all, I know all," said the last comer. "Be a brave man, my Gaspard! It is better for the poor little plaything to die so than to live. It has died in a moment without pain. Could it have lived an hour as happily?"

"You are a philosopher, you there," said the Marquis, smiling. "How do they call you?"

"They call me Defarge."

"Of what trade?"

"Monsieur the Marquis, vendor of wine."

"Pick up that, philosopher and vendor of wine," said the Marquis, throwing him another gold coin, "and spend it as you will. The horses there; are they right?"

Without deigning to look at the assemblage a second time, Monsieur the Marquis leaned back in his seat, and was just being driven away with the air of a gentleman who had accidentally broken some common thing, and had paid for it, and could afford to pay for it, when his case was suddenly disturbed by a coin flying into his carriage, and ringing on its floor.

"Hold!" said Monsieur the Marquis. "Hold the horses! Who threw that?"

He looked to the spot where Defarge the vendor of wine had stood a moment before; but the wretched father was groveling on his face on the pavement in that spot, and the figure that stood beside him was the figure of a dark, stout woman, knitting.

"You dogs!" said the Marquis, but smoothly, and with an unchanged front except as to the spots on his nose: "I would ride over any of you very willingly and exterminate you from the earth. If I knew which rascal threw at the carriage, and if that brigand were sufficiently near it, he should be crushed under the wheels."

So cowed was their condition, and so long and hard their experience of what such a man could do to them, within the law and beyond it, that not a voice, or a hand, or even an eye was raised.

The foregoing, though professing to be a fiction, is conceded by all students of history to be a true portraiture of the condition of things at that time.

Is there no moral to be drawn from all this? Must we stand idly by, in the face of all our professions, and do nothing to abate the evils resulting from corporate power that seem to multiply every day? I hope not.

Mr. Speaker, this is not the time for this House to hesitate or falter in its onward course in this matter of land forfeiture. We have thus far done good work. Right nobly have we responded to the obliga-

tions of our platforms. Thus far the Public Lands Committee has considered and favorably reported and has on the Calendar now ready for action the following bills: The Atlantic and Pacific grant; Memphis and Charleston Railroad; Savannah and Albany Company; the Southern Pacific; the Northern Pacific; the Ontonagon and Wisconsin State Line; the Oregon and California; the California and Oregon; the Houghton, Marquette and Ontario; the Ontonagon and Brulé River; the Mobile and Girard Company.

The foregoing embraces over 70,000,000 of acres to be reclaimed from the corporations and returned to the people.

Then, gentlemen, I adjure you, stand to your promises now, stand to them ever. Renew in yourselves the purer and better days of your party and of the Republic. Reclaim this vast area of land for your countrymen and for their wives and children. They ask it, and it is for you to award it. And remember, if in this beautiful country of ours, whose landscape to-day laughs in its exuberant and abounding fertility, there be disquiet and unrest; if it be true that the affluence of the few waxes and the independence of the many wanes; if there be "sloth in the mart and schism in the temple;" if the omnipotence of wealth has indeed undermined the people's faith in the integrity of the judiciary; than which nothing can be more ominous of ill in a free government; if in many instances justice has been cloven down and dragged from its high eminence by the hand of official malversation; if Congress has come to be regarded in the last twenty years as the arena for the employment of those malign agencies that thrive and fatten upon wrongdoing and misrule; if within sight of the palatial home may be heard ascending to Heaven from poverty's wan lips the unavailing prayer for bread; if the millionaire's invocation for the law's protection be sometimes drowned by the starving laborer's malediction upon a system that denies him the means of decent sustenance; if peace and content, the offspring of requited toil, find no longer an abiding-place at the hearthstone of labor; if the bomb-thrower, if the mad, insensate spirit of the Old World that impels men to the wanton destruction of life and property has found a lodgment with us; if, in other words, the red specter of communism has dared to imprint its cloven hoof and uprear its hideous crest upon American soil; if these things have gone on and on and on until the heart sickens and the pulses of the nation throb with apprehension of some vague, unspoken, undefined disaster; if any or all of these things be true, then remember, Representatives, that the primary, substantial cause thereof is to be found in the concentration of colossal fortunes and the hands of the few, which, in turn, was caused by those enormous gifts of the public lands, one of which gifts this measure is designed to reclaim. [Loud applause.]

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McCook, its Secretary, informed the House that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 7087) authorizing and directing the Secretary of the Interior to extend the time for the payment of the tribute-money on the sale of the reservation of Otoe and Missouri tribes of Indians in the States of Nebraska and Kansas.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 68) for the relief of William P. Chambliss.

The message also announced that the Senate agreed to the resolution of the House of Representatives of July 17 to print the annual report of the Director of the Mint on the production of the precious metals in the United States, with amendments, requested a conference with the House of Representatives on the said resolution and amendments, and had appointed Mr. GORMAN, Mr. MANDERSON, and Mr. HAWLEY the conferees on the part of the Senate.

The message also announced that the Senate had passed without amendment (two-thirds agreeing therein) the bill (H. R. 7881) to remove the political disabilities of Thomas R. Ware, of Virginia.

The message also announced that the Senate had passed without amendment joint resolutions of the House of the following titles:

Joint resolution (H. Res. 22) authorizing the preparation of a compilation of the reports of committees of the Senate and House of Representatives; and

Joint resolution (H. Res. 142) authorizing and directing the Commissioner of Labor to make an investigation as to convict labor, and for other purposes.

The message also announced that the Senate had passed with amendments, in which the concurrence of the House was requested, joint resolution (H. Res. 160) to authorize the Commissioner of the General Land Office to cause 15,000 copies of the map of the United States and Territories to be printed.

The message also announced that the Senate had passed a resolution, in which the concurrence of the House was requested, for printing 2,500 additional copies of the report of the electrical conference at Philadelphia in 1884, for the use of the Department of State.

The message further announced that the Senate had passed a resolution, in which the concurrence of the House was requested, for printing 6,000 additional copies of the official opinions of the Attorneys-General

of the United States from 1789 to 1881, to which shall be added a digest of such official opinions from 1881 to the date of publication.

The Senate also requested the House of Representatives to return to the Senate the bill (H. R. 3014) to provide for terms of court in Colorado.

#### NORTHERN PACIFIC LAND-GRANT FORFEITURE.

Mr. SPEAKER. Mr. Speaker, there is no doubt, as gentlemen have said, that both political parties come here pledged to restore to the public domain all of such lands as have been granted but not earned by the grantees, and for every one, sir, I came here to fulfill that pledge, and so I believe did every member of this House. Now, sir, the history of land-grant legislation is perhaps the most singular chapter in the legislative history of this country. It is true that between about 1860 and 1870 Congress voted away the public lands with the utmost profusion and recklessness. It is also true that shortly after that time the tide turned, and to-day we are feeling the force of the reflux wave. So strong is the demand among the people that lands not earned shall be restored to the public domain that it has been formulated as a plank in I believe each political platform. Mr. Speaker, gentlemen can not frighten me from my legal position by intimating that I am not standing upon that platform if I take a view of the law and of the equity of the case different from that taken by other gentlemen. As time is limited, I will come at once to the point. I take it we all wish to forfeit these lands so far as they are forfeitable. I take it that we wish, all of us, to restore all of them that ought to be restored to the public domain. For one I certainly do. There is, however, a difference in men's minds about this question of "earned lands"—a difference in the minds of the members of the Committee on Public Lands—and I will state it briefly.

The majority of the committee hold that where lands have been granted to aid, for instance, in the construction of a railroad, if the entire road has not been completed within the time fixed, the entire grant is forfeitable, utterly regardless of any rights or equities that may have grown up.

A MEMBER. Except the road-bed.

Mr. VAN EATON. Except the road-bed. They, however, qualify that position to the extent of saying that for reasons of public policy they do not favor forfeiting the lands coterminous with the portions of the road completed within time, as it is called. The view of the minority of the committee, and the view, as I understand, of other gentlemen upon this floor is, that where the road has been completed strictly in accordance with the law, strictly in accordance with the terms of the granting act, whether in time or out of time, even if built after the time limited for the completion of the whole road, if that road has been examined, accepted, and certified to the company before any steps have been taken by the Government to declare the lands forfeited, then the granted lands coterminous with the portions of the road so completed are earned lands, and not to be forfeited.

Mr. Speaker, I hold not only that this view is correct, in accordance with law and in accordance with right, but I take the further position that it has been emphatically sustained by the Supreme Court of the United States in every word, line, and letter that the minority claim, and to that I shall now address the argument. Understand me. Wherever any portion of the road has been completed without any attempt at forfeiture, where it has been constructed according to law, strictly according to the bond, and examined, accepted, and certified, although out of time, the coterminous lands, whether patented or not, are lands upon which we have no right to lay our hands. I propose to show that the Supreme Court of the United States has already decided this point, so that it is now the settled law of the land; and I propose to show that the decisions of the Supreme Court are in exact accord with what the minority of the committee claim, and what I understand to be claimed by many members on this floor.

Let us, in the first place, examine the grant. It is contained in the act of July 2, 1864, 13 Statutes, 362, and reads as follows:

SEC. 3. *And be it further enacted*, That there be, and hereby is, granted to the "Northern Pacific Railroad Company," its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line to the Pacific coast, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores, over the route of said line of railway, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line, as said company may adopt, through the Territories of the United States, and ten alternate sections of land per mile on each side of said railroad whenever it passes through any State, and whenever on the line thereof, the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from pre-emption, or other claims or rights, at the time the line of said road is definitely fixed, and a plat thereof filed in the office of the Commissioner of the General Land Office; and whenever, prior to said time, any of said sections or parts of sections shall have been granted, sold, reserved, occupied by homestead settlers, or pre-empted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof, under the direction of the Secretary of the Interior, in alternate sections, and designated by odd numbers, not more than 10 miles beyond the limits of said alternate sections: *Provided*, That if said route shall be found upon the line of any other railroad route to aid in the construction of which lands have been heretofore granted by the United States, as far as the routes are upon the same general line, the amount of land heretofore granted shall be deducted from the amount granted by this act.

Wherever the lands are referred to in succeeding sections they are spoken of as "the lands hereby granted." Now, as to the decisions of the Supreme Court, I commence with the case of *Schulenberg vs. Hariman*, reported in 21 Wallace. The grant in that case was to the State

of Wisconsin to aid in the construction of a railroad, and the language of the granting act was the same as in the case of this Northern Pacific grant, "that there be and is hereby granted," &c. Now, Mr. Speaker, it is important to notice the condition of things when the circumstances took place out which this controversy grew. The granting language, as I said, is identical in both these acts. In the case to which this decision relates, when the trouble arose out of which the lawsuit grew, there had not been one single foot of the road constructed, and the time limited for its construction had expired. That was the condition of things, the land having been granted to the State by this language, "be and is hereby granted." The time limited had expired without the road being built. Harriman was the agent of the State. Schulenberg went upon the land and cut logs. Harriman seized them. Schulenberg brought replevin, and in that way the case went to the Supreme Court, and the court decided that the title to the lands remained in the State. Why?

The Supreme Court, on page 59 of the volume which I hold in my hand, 21 Wallace, in speaking of this question, say:

The company named in the act never constructed any portion of the road; and there is no evidence the State ever exercised the power to sell, &c.

Now, what does the Supreme Court say about that grant—a grant of the identical sort that we have here in the case of the Northern Pacific Railroad? I ask the Clerk to read from page 60 the passage I have marked.

The Clerk read as follows:

First. That the act of Congress of June 3, 1856, passed a present interest in the lands designated there can be no doubt. The language used imports a present grant, and admits of no other meaning. The language of the first section is "that there be and is hereby granted to the State of Wisconsin" the lands specified. The third section declares "that the said lands hereby granted to said State shall be subject to the disposal of the Legislature thereof;" and the fourth section provides in what manner sales shall be made and enacts that if the road shall not be completed in ten years "no further sales shall be made, and the lands unsold shall revert to the United States." The power of disposal and the provision for the lands reverting both imply what the first section in terms declares, that a grant is made, that is, that the title is transferred to the State. It is true that the route of the railroad, for the construction of which the grant was made, was yet to be designated, and until such designation the title did not attach to any specific tracts of land. The title passed to the sections, to be afterward located; when the route was fixed their location became certain, and the title, which was previously imperfect, acquired precision and became attached to the land.

In the case of *Rutherford vs. Greene's Heirs*, reported in 2 Wheaton, a similar construction was given by this court to an act of North Carolina passed in 1782, which provided that 25,000 acres of land should be allotted and given to General Greene and his heirs within the limits of a tract reserved for the use of the Army, to be laid off by commissioners appointed for that purpose. The commissioners, pursuant to the directions of the act, allotted the 25,000 acres, and caused the quantity to be surveyed and the survey to be returned to the proper office, and the questions raised in the case related to the validity of the title of General Greene and the date at which it commenced. The court held that the general gift of 25,000 acres lying in the territory reserved became by the survey a particular gift of the quantity contained in the survey, and concluded an extended examination of the title by stating that it was the clear and unanimous opinion of the court that the act of 1782 vested a title in General Greene to the 25,000 acres, to be laid off within the bounds designated, and that the survey made in pursuance of the act gave precision to that title and attached it to the land surveyed.

On the 6th of March, 1820, Congress passed an act for the admission of Missouri into the Union, and among other regulations to aid the new State enacted "that four entire sections of land be, and the same are hereby, granted to said State for the purpose of fixing the seat of government thereon, which said sections shall, under the direction of the Legislature of said State, be located as near as may be in one body, at any time, in such townships and ranges as the Legislature aforesaid may select, on any of the public lands of the United States." In *Lessieur vs. Price*, reported in the twelfth of Howard, the operation of this act was considered, and the court said:

The land was granted by the act of 1820; it was a present grant, wanting identity to make it perfect; and the Legislature was vested with full power to select and locate the land; and we need only say here, what was substantially said by this court in the case of *Rutherford vs. Greene's Heirs*, that the act of 1820 vested a title in the State of Missouri of four sections, and that the selection made by the State Legislature pursuant to the act of Congress, and the notice given of such location to the surveyor-general and the register of the local district where the land lay, gave precision to the title, and attached to it the land selected. The United States assented to this mode of proceeding, nor can an individual call it in question.

Numerous other decisions might be cited to the same purport. They establish the conclusion that unless there are other clauses in a statute restraining the operation of words of present grant, these must be taken in their natural sense to import an immediate transfer of title, although subsequent proceedings may be required to give precision to that title and attach it to specific tracts. No individual can call in question the validity of the proceeding by which precision is thus given to the title where the United States are satisfied with them.

The rules applicable to private transactions, which regard grants of future application, of lands to be afterward designated, as mere contracts to convey, and not as actual conveyances, are founded upon the common law, which requires the possibility of present identification of property to the validity of its transfer. A legislative grant operates as a law as well as a transfer of the property, and has such force as the intent of the Legislature requires.

The case of *Rice vs. Railroad Company*, reported in 1 Black, does not conflict with these views. The words of present grant in the first section of the act there under consideration were restrained by a provision in a subsequent section declaring that the title should not vest in the Territory of Minnesota until the road or portions of it were built.

Mr. VAN EATON. I have had that read to show, and the majority of the committee admit it in their report, that this sort of a grant is a grant *in presenti* with a condition subsequent; that is to say, the title passes *eo instanti* when the act is approved.

Mr. CASWELL. And without any reversionary clause.

Mr. VAN EATON. And in this case without any reversionary clause. I will come to that directly. The Supreme Court hold that although a definite line of location is required to give the grant precision, yet the

title passed out of the grantor and into the grantee at the date of the approval of the act. This being the case, what rights has the grantee and when do those rights terminate?

I pause right here to remark that it has been held in both ends of this Capitol by committees of both bodies, by lawyers, by everybody who has ever discussed the question as a lawyer so far as I know—it has been held on all hands until a recent date that this is just that sort of a grant, a grant passing the title at once with a condition-subsequent. In these latter days it has been assumed by some that it is a grant upon condition-*precedent*, and that the title never passed until the condition was performed, and even the case of *Rice vs. The Railroad Company* has been quoted to sustain that doctrine.

Mr. HOLMAN. Will the gentleman from Mississippi allow me this question? Has he considered in this connection the act of July 1, 1868, in which it is provided—

That section 8 of an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget Sound, on the Pacific coast," is hereby so amended as to read as follows: That each and every grant, right, and privilege herein are so made and given to and accepted by said Northern Pacific Railroad Company upon and subject to the following conditions, namely: that the said company shall commence the work on said road within two years from and after the 2d day of July, 1868, and shall complete not less than 100 miles per year after the second year thereafter, and shall construct, equip, furnish, and complete the whole road by the 4th day of July, A. D. 1877.

Mr. VAN EATON. Oh, yes, Mr. Speaker, I have considered all that.

Mr. HOLMAN. That is the express condition on which the grant was made.

Mr. VAN EATON. No, sir; the grant had been made long before that.

Mr. HOLMAN. But had the road been constructed?

Mr. VAN EATON. This was an added burden placed upon this road, and had nothing to do with the grant, because the title had already passed. If the title had passed what could any subsequent legislation do to affect what had already taken place, except to resume the grant, &c.?

Mr. HOLMAN. This provision was put upon the law before the road was constructed.

Mr. VAN EATON. I can not yield; I have not the time. If the gentleman will get the House to vote down the previous question, if it should be called at 3 o'clock, he will have just as much time as he wants; but I can not now yield further.

I was saying that in these late days it has been held, and sometimes in high quarters, that this is a grant upon a condition-*precedent*, and the case of *Rice vs. The Railroad Company* has even been quoted in support of that doctrine. But in this case the Supreme Court considers that question and brushes it aside as having nothing to do with this sort of a grant. Why? Because in that particular case after the granting words "be and are hereby granted" it was subsequently provided in that case in express terms that no title should pass until certain things had been done and so much of the road completed.

Mr. STRUBLE. Does the gentleman refer to the Wisconsin grant?

Mr. VAN EATON. I am referring to the case of *Rice vs. The Railroad Company*, which was discussed by the court in the case of *Schulenberg vs. Harriman*; and the court shows distinctly that the two grants were not of the same class, for the reason that in *Rice vs. The Railroad Company* the words "be and are hereby granted" in the first section were restricted by a provision in a subsequent section declaring that the title should not vest until the road or certain portions of it had been completed.

Now, Mr. Speaker, having established that this is a present grant, conveying a title at once with a condition-subsequent, the next question is, what happens if the condition-subsequent is broken? Very strange to say up to the time of this decision it had been held, I believe, to a very great extent by the profession that in a case where the granting act provided that if the road should not be built within a certain time the lands should revert, that the lands reverted *ipso facto* on the termination of the time designated.

Surely if lawyers had looked into the law relating to this subject more carefully they would never have come to such a conclusion as that. Let us see what the Supreme Court has to say on that subject:

The provision in the act of Congress of 1856 that the lands remaining unsold after ten years shall revert to the United States if the roads be not then completed is no more than the grant shall be void if the condition-subsequent be not fulfilled.

There was the plain provision—not found in the granting act to the Northern Pacific—that the land should revert and no further sales should be made if the road was not built in time, in ten years. When this time elapsed and the road was not built, then what? The Supreme Court holds that the provision against further sales in that event adds nothing to the force of the provision, and if the condition be not enforced the power to sell continues as before the breach. Mark the language—limited only by the object of the grant. What was the object of the grant? To build the road. They said in a preceding page the sale never could be made so as to pass title only as the road is built. Here they say, although the time is out, although the time in which the road was to be built has long since passed, if there has been no en-

try on the part of the grantor the power to sell continues as before its breach limited only by the object of the grant.

I think up to this point I have established two steps in this argument: First, the character of the grant, being a present grant on a condition-subsequent; secondly, when the condition is broken the grantee may then comply with the condition and earn the grant if the grantor stands by and allows it to be done. I think that is decided emphatically.

I should have remarked, but being hurried I overlooked it when I started, and I shall take occasion to do so now, that in this case the road was completed to the Missouri River—to Bismarck—within the time limited, July 4, 1879. It is true the grant was made on the 2d of July, 1866, and the road was to be completed by July 4, 1876, but it was afterward extended, by law and by construction of the Interior Department, until the time for building the road was said to be July 4, 1879.

Mr. PAYSON. That was under numerous Congressional extensions.

Mr. VAN EATON. I said that by acts of Congress and departmental constructions it might go on until the 4th of July, 1879. This road was completed to Bismarck in time. After the time, I admit it, the road was built to Wallula. From Wallula to Portland, 214 miles, the company leased a road which they found completed between those points. From Portland to Tacoma they built their road. They are now engaged in the construction of what is called the Cascade branch. There is no dispute about the facts. There is no dispute except as to the law.

Now, having shown why the minority of the committee hold as we do, let me read further. This decision of the Supreme Court has been criticised. I have heard men, not lawyers, speak of it in terms of great opprobrium. I have heard lawyers assert if the Supreme Court had the chance again they would decide differently; reverse their decision in *Schulenberg vs. Harrimon*. Let us see whether that is possible. The Supreme Court on page 63 say:

The prohibition against further sales, if the road be not completed within the period prescribed, adds nothing to the force of the provision. A cessation of sales in that event is implied in the condition that the lands shall then revert; if the condition be not enforced the power to sell continues as before its breach, limited only by the objects of the grant and the manner of sale prescribed in the act.

And it is settled law that no one can take advantage of the non-performance of a condition-subsequent annexed to an estate in fee, but the grantor or his heirs, or the successors of the grantor if the grant proceed from an artificial person; and if they do not see fit to assert their right to enforce a forfeiture on that ground the title remains unimpaired in the grantee. The authorities on this point, with hardly an exception, are all one way from the Year Books down. And the same doctrine obtains where the grant upon condition proceeds from the Government; no individual can assail the title it has conveyed on the ground that the grantee has failed to perform the conditions annexed.

In what manner the reserved right of the grantor for breach of the condition must be asserted so as to restore the estate depends upon the character of the grant. If it be a private grant, that right must be asserted by entry or its equivalent. If the grant be a public one it must be asserted by judicial proceedings authorized by law, the equivalent of an inquest of office at common law, finding the fact of forfeiture and adjudging the restoration of the estate on that ground, or there must be some legislative assertion of ownership of the property for breach of the condition, such as an act directing the possession and appropriation of the property, or that it be offered for sale or settlement. At common law the sovereign could not make an entry in person, and, therefore, and office-found was necessary to determine the estate, but, as said by this court in a late case, "the mode of asserting or of resuming the forfeited grant is subject to the legislative authority of the Government. It may after judicial investigation, or by taking possession directly under the authority of the Government without these preliminary proceedings." In the present case no action has been taken either by legislation or judicial proceedings to enforce a forfeiture of the estate granted by the acts of 1856 and 1864. The title remains, therefore, in the State as completely as it existed on the day when the title by location of the route of the railroad acquired precision and became attached to the adjoining alternate sections.

Mr. PAYSON. The same title they had by act of Congress.

Mr. VAN EATON. Why, of course.

Mr. PAYSON. Precisely.

Mr. VAN EATON. And by the act of Congress they had a right to build the road. They have the same right to build it if the Government did not see fit to enforce the forfeiture of the grant that they had in the beginning. The title remains unimpaired in the grantee. But if there is a possibility of being mistaken in that point there are two other points to which I desire to call attention. In 12 Howard I find this in the case of *The Propeller Genesee Chief et al. vs. Fitzhugh et al.*, and which I believe first laid down the doctrine in reference to maritime law as applicable to fresh-water rivers and lakes. The Supreme Court had previously decided differently in the case of the *Thomas Jefferson*. In the present case the court go on to hold, page 76:

The case of the *Thomas Jefferson* did not decide any question of property or lay down any rule by which the right of property should be determined. If it had we should have felt ourselves bound to follow it, notwithstanding the opinion we have expressed. For every one would suppose that after the decision of this court in a matter of that kind he might safely enter into contracts upon the faith that rights thus acquired would not be disturbed. In such a case *stare decisis* is the safe and established rule of judicial policy and should always be adhered to. For if the law as pronounced by the court ought not to stand, it is in the power of the Legislature to amend it without impairing rights acquired under it.

But the decision referred to has no relation to rights of property. It was a question of jurisdiction only, and the judgment we now give can disturb no rights of property nor interfere with any contracts heretofore made. The rights of property and of parties will be the same by whatever court the law is administered.

And as we are convinced that the former decision was founded in error and that the error, if not corrected, must produce serious public as well as private inconvenience and loss, it becomes our duty not to perpetuate it.

Under this decision (*Schulenberg vs. Harrimon*) rights have been acquired, rights innumerable, and that would be the reason why the Supreme Court, even if it were not the established law, would never interfere. But, again, I hold in my hand a letter from the Interior Department written by Commissioner Sparks, in which he holds this language; he was answering a question:

The rights of the State and of the company claiming under the State were not vacated by the failure to complete the road within the time required. In the case of *Schulenberg vs. Harrimon* (21 Wallace, 44) the Supreme Court of the United States held that until some action be taken either by legislation or judicial proceedings to enforce a forfeiture of the grant, the title remains in the State as completely as it did on the day that it took effect by the location of the road.

The Department has been, and is now, governed by that decision in all cases to which it is applicable, and in view thereof it is not seen how the grant can be considered as "vacated" until a forfeiture of the same has been declared.

Then, the point is this: That since the decision of the case in *Schulenberg* against *Harriman*, rendered in 1874, this has been the accepted doctrine upon which the Interior Department and the Commissioner of the General Land Office have acted namely, that the grantee company may go on and build their road just as well after the ten years (or the time limited) had expired as before, and the constant practice is that when the road is built in sections each section, say, of 25 miles for instance, as completed is examined by special examiners sent out by the President, who report the fact of the completion within the terms of the law; and I repeat that has been the practice and still remains the practice, and that is just what has been done in this particular case.

My text, so to speak, is that these lands can not be forfeited, and that is what I promised to prove. Having gone as far as I have with reference to the nature and effect of the grant, I want to call attention to another decision that in my opinion settles beyond all possibility of controversy the correctness of the position I assume with reference to the language of this grant. I refer now to the case of *Van Wyck vs. Knevals* (106 United States Rep., page 368). This is a very important decision in connection with the argument I am making, because if there is anything that has been left out as far as I have gone with these decisions, it is completed or supplemented in this case. I quote now from the case to which I have referred, 106 United States Rep., 16 Otto. In this case it was provided, and I want it distinctly understood—but I had better read the language:

The third section provides that the lands granted "shall inure to the benefit of said company as follows: When the governor of the State of Kansas shall certify that any section of 10 consecutive miles of said road is completed in good, substantial, and workmanlike manner as a first-class railroad, then the Secretary of the Interior shall issue to the said company patents for so many sections of said land hereinbefore granted as lie opposite to and coterminous with the said completed sections, and when certificates of the governor aforesaid shall be presented to the Secretary of the completion as aforesaid of each successive section of 10 consecutive miles of said road the said Secretary shall in like manner issue to said company patents for the said sections of said lands as aforesaid for each of said sections of road until said road shall be completed: *Provided*, That if said railroad company or its assigns shall fail to complete at least one section of said road each year from the date of its acceptance of the grant provided for in this act, then its right to the lands for said section so failing of completion shall revert to the Government of the United States: *Provided further*, That if said road is not completed within ten years from the date of the acceptance of the grant hereinbefore made, the lands remaining unpatented shall revert to the United States."

What I wish to remark in this connection is this, and it will be seen by the language of the granting act, that if this road was not completed within the ten years the unpatented lands should revert to the United States. The Supreme Court held that all the lands coterminous with the completed portion of the road belonged to it, whether patented to it or not, and right in the face of the language of the granting act.

The defendant having failed to establish the validity of his own title, attacks the right of the company to the lands covered by the grant, alleging that the company never completed the construction of the entire road for which the grant was made; that after filing its map with the Secretary of the Interior it changed, for part of the distance, the route of the road, and that it never complied with the conditions of the laws of Nebraska for the extension of its road within the limits of that State.

We do not deem these objections when considered with the facts on which they are based as having any force. There is to them a ready and conclusive answer. Assuming that the Burlington and Missouri River Railroad with which the company's road connected was not, as averred by the complainant, a branch of the Union Pacific Railroad, and that, therefore, the company's proposed road was not entirely completed the fact remains that the company constructed a portion of the proposed road, and that portion was accepted as completed in the manner required by the act of Congress. Patents for some of the adjoining sections were accordingly issued to the company and a right to all of them, not especially reserved by the condition of the grant, was vested in it.

Then, so far as that portion of the road which was completed and accepted is concerned, the contract of the company was executed.

So far as that portion of the road which was completed and accepted is concerned, the contract of the company was executed, and as to the lands patented the transaction on the part of the Government was closed and the title of the company perfected. The right of the company to the remaining odd-numbered sections adjoining the road completed and accepted, not reserved, is equally clear. If the whole of the proposed road has not been completed any forfeiture consequent thereon can be asserted only by the grantor, the United States, through judicial proceedings or through the action of Congress. (*Schulenberg vs. Harriman*, 21 Wall., 44.) A third party can not take upon himself to enforce conditions attached to the grant when the Government does not complain of their breach. The holder of an invalid title does not strengthen his position by showing how badly the Government has been treated with respect to the property.

Although the act provided that the unpatented lands should revert to the United States, yet having built the road and earned them, the Supreme Court held that the title of the road is as clear to these lands as it is or was to those that were patented. I should before this have read section 4 of the granting act to the Northern Pacific Railroad. I will read it now:

SEC. 4. *And be it further enacted*, That whenever said "Northern Pacific Railroad Company" shall have 25 consecutive miles of any portion of said railroad and telegraph line ready for the service contemplated the President of the United States shall appoint three commissioners to examine the same, and if it shall appear that 25 consecutive miles of said road and telegraph line have been completed in a good, substantial, and workmanlike manner, as in all other respects required by this act, the commissioners shall so report to the President of the United States, and patents of lands as aforesaid shall be issued to said company, confirming to said company the right and title to said lands, situated opposite to, and contiguous with, said completed section of said road; and, from time to time, whenever 25 additional consecutive miles shall have been constructed, completed, and in readiness as aforesaid, and verified by said commissioners to the President of the United States, then patents shall be issued to said company conveying the additional sections of land as aforesaid, and so on as fast as every 25 miles of said road is completed as aforesaid: *Provided*, That no more than ten sections of land per mile, as said road shall be completed, shall be conveyed to said company for all that part of said railroad lying east of the western boundary of the State of Minnesota, until the whole of said railroad shall be finished and in good running order, as a first-class railroad, from the place of beginning on Lake Superior to the western boundary of Minnesota: *Provided also*, That lands shall not be granted under the provisions of this act on account of any railroad, or part thereof, constructed at the date of the passage of this act.

That is our case on the law up to this time. I have brought these decisions down now so as to apply the law to the exact case before us, making it applicable to the existing facts. Although much of this road was built out of time, yet it was built when there was no act of forfeiture on the part of the grantor. On the contrary the grantor was cooperating with the builders of the road all the time, sending out examiners, inspecting portions of the road completed, certifying to the fact that it was properly constructed and patenting the contiguous lands.

Mr. MCKENNA. Is that under the act?

Mr. VAN EATON. Yes, sir; in strict accordance with the very letter of the law.

But, Mr. Speaker, that is not all. I might stop here and claim that this land coterminous with the built portion of the road is not forfeitable. But I have something else to submit on this point. I will refer here to Ludlow's case in 12 Barber, and to the text in 2 Washburne on Real Property, where the following is held:

Where, however, a grant to a railroad company of land was upon condition that the road should be completed by a certain time, which was not done, and after that, the grantor knowing the fact, suffered the company to go on and incur expenses in constructing their road and made no objection, it was held to be a waiver of the condition and forfeiture. And it is laid down as a general principle that a condition which, if taken advantage of, destroys the whole estate, if once dispensed with, in whole or in part, is gone forever, for a condition being an entire thing can not be apportioned except by law. Thus, where a grant was made to a company on condition that they should erect a bloomery on the estate by such a time, and the grantor afterward waived that and gave them permission to erect a blast-furnace in its stead, and extended the time for its erection, it was held that a failure to erect the furnace within the extended time was not a ground for forfeiture. The condition was gone, and the terms of the grant did not create a covenant.

That was the case of a road built out of time. Yet the grantor saying nothing, the court held the title was good to the land. It is true that was an individual, but the great principles of right and justice, I take it, are the same between nations and individuals and corporations as they are between individuals.

There is another thing to which I wish to call the attention of the House particularly. The facts in this case were that no road had been built up to March, 1869. The granting act provided that the company should not put out any mortgage bonds on any of its property without the consent of Congress. In 1869 Congress authorized the company to issue its bonds and secure the same by mortgage on its railroad and telegraph line. Even on that no money was raised and no road was built.

What was done next? We now come to the joint resolution of May 31, 1870. The gentleman from California [Mr. HENLEY] who opened this argument treated this very lightly; but I think it is absolutely conclusive.

In section 10 of the original granting act this was provided:

SEC. 10. *And be it further enacted*, That all people of the United States shall have the right to subscribe to the stock of the Northern Pacific Railroad Company until the whole capital named in this act of incorporation is taken up, by complying with the terms of subscription; and no mortgage or construction bonds shall ever be issued by said company on said road, or mortgage, or lien made in any way, except by the consent of the Congress of the United States.

Well, now we come down to 1870, and find this state of things. No road had been built. It was not even commenced. Then Congress came in and did this. Perhaps, Mr. Speaker, it would have been wiser then to have repealed the act and resumed the land. But, sir, they did not do it. Congress, in 1870, passed this joint resolution, approved May 31:

[Resolution of May 31, 1870.]

No. 67.—A resolution authorizing the Northern Pacific Railroad Company to issue its bonds for the construction of its road and to secure the same by mortgage, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Northern Pacific Railroad Company be, and hereby is, authorized to issue its bonds to aid in the construction and equipment of its road, and to secure the same by mortgage on its property and rights of

property of all kinds and descriptions, real, personal, and mixed, including its franchises as a corporation; and, as proof and notice of its legal execution and effectual delivery, said mortgage shall be filed and recorded in the office of the Secretary of the Interior; and also to locate and construct, under the provisions and with the privileges, grants, and duties provided for in its act of incorporation, its main road to some point on Puget Sound, via the valley of the Columbia River, with the right to locate and construct its branch from some convenient point on its main trunk line across the Cascade Mountains to Puget Sound; and in the event of there not being in any State or Territory in which said main line or branch may be located, at the time of the final location thereof, the amount of lands per mile granted by Congress to said company, within the limits prescribed by its charter, then said company shall be entitled, under the directions of the Secretary of the Interior, to receive so many sections of land belonging to the United States, and designated by odd numbers, in such State or Territory, within 10 miles on each side of said road, beyond the limits prescribed in said charter, as will make up such deficiency; on said main line or branch, except mineral and other lands as exempted in the charter of said company of 1864, to the amount of the lands that have been granted, reserved, occupied by homestead settlers, pre-empted, or otherwise disposed of subsequent to the passage of the act of July 2, 1864, and that 25 miles of said main line between its western terminus and the city of Portland, in the State of Oregon, shall be completed by the 1st day of January A. D. 1872, and 40 miles of the remaining portion thereof each year thereafter, until the whole shall be completed between said points: *Provided*, That all lands hereby granted to said company which shall not be sold or disposed of or remain subject to the mortgage by this act authorized, at the expiration of five years after the completion of the entire road, shall be subject to settlement and pre-emption like other lands, at a price to be paid to said company not exceeding \$2.50 per acre; and if the mortgage hereby authorized shall at any time be enforced by foreclosure or other legal proceeding, or the mortgaged lands hereby granted, or any of them, be sold by the trustees to whom such mortgage may be executed, either at its maturity or for any failure or default of said company under the terms thereof, such lands shall be sold at public sale, at places within the States and Territories in which they shall be situated, after not less than sixty days previous notice, in single sections or subdivisions thereof, to the highest and best bidder: *Provided further*, That in the construction of the said railroad, American iron or steel only shall be used, the same to be manufactured from American ores exclusively.

SEC. 2. *And be it further resolved*, That Congress may at any time alter or amend this joint resolution, having due regard to the rights of said company, and any other parties.

Approved May 31, 1870.

The gentleman from California [Mr. HENLEY] said if they meant to give the road any greater right or title to these lands than had been already given why not set it up in this amending act or joint resolution? Why, Mr. Speaker, that is just what they did do. I do not think Congress could have done it in any plainer language than they have done it in this act. They provide this:

*Provided*, That all lands hereby granted to said company which shall not be sold or disposed of or remain subject to the mortgage by this act authorized, at the expiration of five years after the completion of the entire road, shall be subject to settlement and pre-emption like other lands, at a price to be paid to said company not exceeding \$2.50 per acre; and if the mortgage hereby authorized shall at any time be enforced by foreclosure or other legal proceeding, or the mortgaged lands hereby granted, or any of them, be sold by the trustees to whom such mortgage may be executed, either at its maturity or for any failure or default of said company under the terms thereof, such lands shall be sold at public sale, at places within the States and Territories in which they shall be situated, after not less than sixty days previous notice, in single sections or subdivisions thereof, to the highest and best bidder.

Mr. Speaker, I put it to any lawyer, is the express permission to mortgage the granted lands and the specific directions as to the manner of sale in case the mortgage is foreclosed consistent with the idea that Congress also and at the same time or at any time can declare a forfeiture of the lands, and so destroy the very security it has authorized?

Mr. PAYSON. Will the gentleman permit me one question?

Mr. VAN EATON. Yes, sir.

Mr. PAYSON. Does he think as a matter of law that under the mortgage any better title would pass than the mortgagor himself had at the time of its execution?

Mr. VAN EATON. No, sir.

Mr. PAYSON. In other words, the power to mortgage being given in 1870, when the time for the construction of the road did not expire until 1879, and the general grant contained the conditions of which the gentleman has spoken, does he not think, as a lawyer, the same conditions attach to the land after the mortgage as before?

Mr. VAN EATON. With this exception, that by this very permission that condition was waived.

Mr. PAYSON. How?

Mr. VAN EATON. By allowing these lands to be mortgaged and inviting the people of the United States to come in and take these mortgage bonds to enable them to build the road, and this permission, when that act was passed, they had.

Mr. PAYSON. Except, subject to the condition.

Mr. VAN EATON. The condition of forfeiture as far as that is concerned is waived. The mortgage was authorized expressly to "aid the Northern Pacific Railroad Company in the construction and equipment of its road."

Mr. WEAVER, of Iowa. They had the land on certain conditions.

Mr. VAN EATON. Please make your speeches in your own time.

Now, sir, let us look at this for a minute in a common-sense point of view. What was the object of allowing the railroad company to mortgage these lands? Was it not to raise money to build the road? Now, suppose the men who loaned the money had said to the company, "You are giving us a mortgage on these lands, it is true, but suppose you do not build the road in time and the United States Government forfeits the lands, what security have we got?" and suppose that right then and there a competent authority could have told the money-lenders, "You run the risk of losing your money if this road is not built in

time, strictly up to the letter of the bond," do you suppose any money-lender in Christendom would have invested his money on such conditions? Certainly not. But when he looked at the resolution granting to the company the right to mortgage these lands and saw prescribed the manner in which they should be sold in case the debt was not paid, and saw further that the road was to be completed in 25-mile sections and the coterminous lands patented, then he could not doubt any longer.

Mr. MCKENNA. Do you not suppose the money-lender would take into consideration the power of the road to complete the road within the prescribed time, and thereby to earn the land grant?

Mr. VAN EATON. Very likely he would; and he would know perfectly well, too, that just as the road was built the lands coterminous with that portion of it would be earned and a security for his debt.

Mr. FINLAY. How long did these bonds run?

Mr. VAN EATON. I do not remember just now; but I will answer the gentleman later. Now, Mr. Speaker, I want to call attention at this point to what was done under this resolution. After the passage of the said resolution giving the company permission to mortgage the road mortgages were made as follows:

1. The mortgage of July 1, 1870, now represented by the preferred stock of the company.
  2. The Missouri division mortgage of March 1, 1879.
  3. The Pend d'Oreille mortgage on that portion of the line of September 1, 1879.
  4. The general mortgage of June 1, 1881, at the rate of \$25,000 per mile, now the first mortgage on the greater portion of the main line.
  5. The second mortgage of November 20, 1883, for \$20,000,000.
- The outstanding mortgage bonds of the company were as follows July 30, 1885, the close of last financial year:

General first-mortgage bonds.....	\$43,403,000
General second-mortgage bonds.....	18,857,000
Missouri division mortgage bonds.....	2,233,500
Pend d'Oreille division mortgage bonds.....	3,240,000

Add to this preferred stock, which is an equitable mortgage, being the old first mortgage converted into stock.....	67,833,500
	38,610,584
	106,454,084

The power to make these mortgages and give a valid title which could be enforced by foreclosure is utterly inconsistent with the existence of a forfeiture.

However, I must go back a little before I leave the subject of the mortgage. I want to call attention to one point in the second section of the resolution passed in May, 1870, and I lay particular stress upon it. It is this: "Congress may at any time alter or amend this joint resolution, having due regard to the rights of said company and any other parties." Now, that is very important. What other parties were there? What other parties could there be than the creditors of the road? And if Congress altered the act, it was to be done with due regard not only to the rights of the railroad company but to the rights of "any other parties." As throwing further light on what the object of the grant was I wish to call attention to the recapitulation in section 20, and I read it:

The better to accomplish the object of this act, namely, to promote the public interest and welfare by the construction of said railroad and telegraph line and keeping the same in working order, to secure to the Government at all times, but particularly in time of war, the use and benefits of the same for postal, military, and other purposes, Congress may at any time, having due regard for the rights of said Northern Pacific Railroad Company, add to, alter, amend, or repeal this act.

There you have the object of the grant recited and repeated.

Then, Mr. Speaker, we have this state of facts: The road virtually completed, at least so far so as to obtain the object of the grant, and the cars running from lake to ocean, completed and accepted from Lake Superior to Wallula, say 2,000 miles, connection of Wallula and Portland by leased lines, and built from Portland to Tacoma, with the Cascade branch from Wallula to Seattle in rapid process of construction, and since February, 1884, 150 miles of the road have been accepted and approved by the President of the United States, and of this 25 miles of the Cascade branch by President Cleveland, November 18, 1885.

Great quantities of the lands proposed to be forfeited are in the hands of innocent purchasers. Five mortgages, ranging in date from July 1, 1870, to November 20, 1883, have been executed by the Northern Pacific Railroad Company, all covering the lands filed in the Interior Department and recorded in the proper offices along the line of the road.

And this was done under authority of Congress. We know it was the intention of Congress to allow the entire land grant to be mortgaged, and that the lands were so mortgaged five times with the knowledge of Congress and the Interior and Executive Departments. It is a fact that the bonds issued under the mortgage have been sold to citizens who paid their money for them. They have gone into the business of the country, and are held by innocent purchasers. In fact it is said, and no doubt truly, that these bonds are held in every State in the Union. There can be no doubt that all this has been done under the firm and confident belief that every step was taken under the approbation of Congress and to carry out its policy. The bondholders, citizens everywhere, have now this day the lands and all the lands for their security. If we have the power, have we the right to deprive them of that security? Is it only the railroad we are injuring? Are we not deranging the business of the country to the extent of depreciating these securities in the hands of all sorts of people, not simply bankers and capitalists?

Again, have the purchasers of these lands no rights we are bound to respect? Oh, yes, say the majority. We will give each of these 360 acres, no more, whether he be settler, or purchaser for investment, as doubtless many of them are. A father may have invested his hard earnings for the benefit of his growing family; another may have invested all his earnings, looking prudently forward to a rise in price. Ownership of these lands may in many cases stand for the earnings of a lifetime. No matter; ruthlessly sweep all away save only 360 acres, say the majority of the committee. What for, I would respectfully ask? Why, simply to drive out the present settlers and purchasers to let others come in.

A great deal of rhetoric has been expended in describing the magnitude of this grant, and it is a large one; but what has that to do with the argument? The grant is for the alternate odd-numbered sections of the public lands, to the amount of twenty alternate sections per mile, on each side of the line of the road, through the Territories, and ten alternate sections on each side in the States, with an addition of not more than ten sections on each side for indemnity limits. Now, gentlemen speak of the grant as if it comprised a tract of land 60 miles wide from the lakes to the Pacific Ocean, which is a gross exaggeration. In the Territories very little indemnity lands will be required, and whatever the quantity it must be borne in mind an equal quantity, the even-numbered sections, are along the line of the road, and remain at the disposal of the Government for the benefit of settlers and purchasers. Gentlemen speak of the granted lands as if they were lost, obliterated, wiped out. Why, they are still there in place, open for settlement the same as they ever were. True, they can not be homesteaded, and there may be some increase in the price, but so far, as a general thing, very little, if any, more than the lands reserved by the Government.

Again, much is said of the great munificence of this grant and its vast pecuniary value. This, as I have said, is greatly exaggerated, but even if true what gives the lands their increased value? What but this very road it is proposed to deprive of the lands? Why, it is well known that but for the road these lands would have no present value, could not be sold for any price, nor could they be taken for homesteads. To illustrate how railroads enhance the price of lands coterminous with their lines, I venture to read here an extract from the Commercial Herald of recent date, a progressive and representative paper of my State, published in the city of Vicksburg. Speaking of a road recently constructed through Mississippi, and forming, I believe, a part of what is known as the Huntington system, that paper in a late issue said:

THE ROOM.

We print this morning a letter from a correspondent, which shows how railroads develop a country. We venture the assertion that the magnificent trunk line known as the Louisiana, New Orleans and Texas Railroad has added to values in the State five times what the road cost, and its own value in addition for it runs through the State on a longer line than any other road. Its building and operation have acted like magic. The trackless swamps of the Mississippi River have been subdued, and the famed tales of Aladdin's lamp are surpassed by the reality. On all the line through the State prosperity prevails, and the throb of renewed life is given to lands that were before considered worthless. Where a forest stood before, in old abandoned fields, in the tangled jungles of the great valley, may now be seen thriving towns, cities, and villages, and happy homes. It is almost beyond the most ardent hopes of the friends of railway development what has actually been the direct result of the construction of this road through our State.

These results are to be observed by all, but there are others, not to be estimated in dollars and cents, but fully appreciated, and perhaps more valuable to the Yazoo Delta. The people of the Delta have a powerful ally to protect their lands from the floods of the mighty Mississippi, and an indorser of their credit to enable them to utilize in the best manner their own means of protection. Years ago we wrote up this giant enterprise, but as hopeful as we were we dared not anticipate what has actually occurred.

These values have been added in a very short time, and the future is before us. Who can tell the full extent of the benefit the country will receive? Who can tell what limits our city will reach in business and growth as the years roll by, if our citizens realize the advantages now within our grasp? Let our citizens resolve not to be outstripped by any city, no matter what its size. Let the boom be kept up, and in a short while those who knew the old sluggish town of Vicksburg will see in its place a large and rapidly growing city. Certainly these results are to be obtained with the proper co-operation and effort.

Now, Mr. Speaker, where much of this improvement and prosperity are being developed three years ago were impenetrable jungles and swamps, rarely penetrated by man save by the adventurous hunter. The much-abused railroad has been the agent of the change, and what a change! So with trackless deserts where now runs the Northern Pacific. Where only wild beasts and wild Indians roamed, fields and villages and settlements with all the appliances of civilized life abound. Yes, the lands are increasing in value and will continue to increase as population surges westward, and all on account of the Northern Pacific Railroad. This road is abused as an oppressive corporation and monopoly, and for all I know, justly; of that I know nothing. Nor has that anything to do with the question before the House. I am not the apologist of the road; in fact, I know nothing about it, its owners, directors, or officers. I am simply arguing a legal question; and it seems to me all the rhetoric brought into requisition to excite undue prejudice against the road is simply wasted in the argument. If this road or any other is guilty of acts of oppression let us apply the correctives proposed by the gentleman from Texas [Mr. REAGAN], or something in that direction, and to that I have no sort of objection.

The lands granted in aid of the building of this road should be for-

feited, we are told, because the road was not completed in time. Well, why was it not so completed?

In the first place, the building of the road was greatly retarded by the financial troubles of 1873. It is in the memory of members that for several years after that panic no enterprise of this kind could be prosecuted, the money could not be had, and so several years passed and nothing was done or could be. But that was not all. It was part of the contract on the part of the Government that surveys should be made as fast as might be required for the construction of the road. Section 6 of the granting act provided as follows:

SEC. 6. *And be it further enacted*, That the President of the United States shall cause the lands to be surveyed for 40 miles in width on both sides of the entire line of said road, after the general route shall be fixed; and as fast as may be required by the construction of said railroad; and the odd sections of land hereby granted shall not be liable to sale, or entry, or pre-emption before or after they are surveyed, except by said company, as provided in this act; but the provisions of the act of September, 1841, granting pre-emption rights, and the acts amendatory thereof, and of the act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862, shall be, and the same are hereby, extended to all other lands on the line of said road, when surveyed, excepting those hereby granted to said company. And the reserved alternate sections shall not be sold by the Government at a price less than \$2.50 per acre when offered for sale.

How did the Government comply with its part of this agreement? The answer is found in the views of the minority as set forth on pages 22, 23, which I here quote:

3. The grantor agreed to clear the right of way of Indians to enable the grantee to construct its road. The grantor alone had the power to do that. It was not done, and many of the surveying parties of the company were killed while endeavoring to select a route for said road. What was the condition of the country through which said road has subsequently been built prior to July, 1879? Let the commanding officers of the United States Army tell. General Brislin, commanding at Fort Keogh, wrote from that place under date of April 23, 1882, as follows:

"I mention these incidents to show you the condition of the Yellowstone country prior to 1877. It was so unsafe that not less than one thousand armed men could penetrate it without suffering great risk. I advised the delay or abandonment of the survey for the Northern Pacific Railroad because we had not sufficient men to make the country safe. These brave fellows were several times attacked, and I expected they would be massacred."

General Gibbon, April 27, 1882, wrote:

"From 1870, when I first went to Montana, till 1876, that whole region (between Mandan, Dak., and Bozeman, Mont.) was an almost unknown wilderness, where it was not safe for any but large and well-organized parties of white men to go. Engineer parties had upon all occasions to be well protected with troops, and even after the establishment of Forts Keogh and Custer, in 1876-77, the bands of roving, hostile Indians rendered engineering operations along the line of the Northern Pacific Railway hazardous."

On same date General Terry, commanding the department, wrote from Fort Snelling:

"I came into command in this department in January, 1873. From that time up to the beginning of 1877 it would have been impossible to make surveys in the valley of the Yellowstone from the mouth of the river to the western part of the Crow reservation except under the protection of a very large escort of troops. That portion of the valley of which I have spoken has been constantly overrun by hostile Sioux, and even with a powerful escort surveys could have been prosecuted only at a very great disadvantage."

Under such circumstances, we think that the company has done all that a reasonable government could expect or require. The condition was one which it was impossible to perform within the time required. It was rendered impossible by the failure of the grantor to keep its part of the contract. There was, therefore, no breach of condition. (2 Blackstone's Com. (by Cooley), 156, note 11; 4 Kent's Com., 129, 130; Coke's Ins., 206b, 2209a; Sheppard's Touchstone, 133; United States vs. Maca, 18 Howard, p. 557; United States vs. Reading, 18 Howard, 1.)

But this is not all. In section 2 of the granting act is found these words:

The United States shall extinguish, as rapidly as may be consistent with public policy and the welfare of the said Indians, the Indian titles to all lands falling under the operation of this act, and acquired in the donation to the [road] named in this bill.

Now, when the engineers and construction men reached the Crow reservation in Montana they were stopped by the Indian agent and threatened with military force if they entered, and thus they were halted until the treaty of 1882.

Now, Mr. Speaker, as late as 1882 what did Congress do? I contend they condoned any delay on the part of the company, acknowledged its right to go on and build the road, and again waived any right of forfeiture (if any existed, which I deny, and will attempt to prove if I have time) on the part of the Government.

Let us see. Chapter 284, 22 Stat., page 157, July 10, 1882, was "an act to accept and ratify an agreement with the Crow Indians for the sale of a portion of their reservation in the Territory of Montana required for the use of the Northern Pacific Railroad Company, and to make the necessary appropriation for carrying out the same." In this act the right of the company to construct its road through this reservation is distinctly recognized, and the fact that it had filed a map showing the definite location of the road was conceded, and then the act recites—

Whereas the said company desires to construct its line of railroad upon such designated route, and claims the right by virtue of said act (the act granting the lands) so to do: Now, therefore, to fulfill the obligations of the Government, &c.

Then follows the act ratifying the treaty with the Crow Indians. What for? To enable the company to construct its road through their reservation. And this was as late as July 10, 1882, barely four years ago and more than three years after the time for the completion of the road had elapsed. Comment, Mr. Speaker, is unnecessary. In the case of United States vs. Union Pacific Railroad Company (9 Supreme Court Reports,

page 72), the Supreme Court, in rendering their decision, have so well described the interests requiring and the difficulties attending the construction of such a road as this that I quote what they have to say in the opinion delivered by Mr. Justice Davis. All that was said on the subject with regard to the building of that road applies with equal force to this:

In construing an act of Congress we are not at liberty to recur to the views of individual members in debate nor to consider the motives which influenced them to vote for or against its passage. The act itself speaks the will of Congress, and this is to be ascertained from the language used. But courts, in construing a statute, may with propriety recur to the history of the times when it was passed; and this is frequently necessary in order to ascertain the reason as well as the meaning of particular provisions in it. (Aldridge vs. Williams, 3 How., 24; Preston vs. Browder, 1 Wheat., 120.)

Many of the provisions in the original act of 1862 are outside of the usual course of legislative action concerning grants to railroads, and can not be properly construed without reference to the circumstances which existed when it was passed. The war of the rebellion was in progress; and, owing to complications with England, the country had become alarmed for the safety of our Pacific possessions. The loss of them was feared in case those complications should result in an open rupture; but, even if this fear were groundless, it was quite apparent that we were unable to furnish that degree of protection to the people occupying them which every government owes to its citizens. It is true, the threatened danger was happily averted; but wisdom pointed out the necessity of making suitable provisions for the future.

This could be done in no better way than by the construction of a railroad across the continent. Such a road would bind together the widely separated parts of our common country and furnish a cheap and expeditious mode for the transportation of troops and supplies. If it did nothing more than afford the required protection to the Pacific States, it was felt that the Government, in the performance of an imperative duty, could not justly withhold the aid necessary to build it; and so strong and pervading was this opinion that it is by no means certain that the people would not have justified Congress if it had departed from the then settled policy of the country regarding works of internal improvement and charged the Government itself with the direct execution of the enterprise.

This enterprise was viewed as a national undertaking for national purposes, and the public mind was directed to the end in view rather than to the particular means of securing it. Although this road was a military necessity there were other reasons active at the time in producing an opinion for its completion besides the protection of an exposed frontier. There was a vast unpeopled territory lying between the Missouri and Sacramento Rivers which was practically worthless without the facilities afforded by a railroad for the transportation of persons and property. With its construction the agricultural and mineral resources of this territory could be developed, settlements made where settlements were possible, and thereby the wealth and power of the United States largely increased; and there was also the pressing want, in time of peace even, of an improved and cheaper method for the transportation of the mails and of supplies for the Army and the Indians.

It was in the presence of these facts that Congress undertook to deal with the subject of this railroad. The difficulties in the way of building it were great, and by many intelligent persons considered insurmountable.

Although a free people, when resolved upon a course of action, can accomplish great results, the scheme for building a railroad 2,000 miles in length, over deserts, across mountains, and through a country inhabited by Indians, jealous of intrusion upon their rights, was universally regarded at the time as a bold and hazardous undertaking. It is nothing to the purpose that the apprehended difficulties in a great measure disappeared after trial, and that the road was constructed at less cost of time and money than had been considered possible. No argument can be drawn from the wisdom that comes after the fact. Congress acted with reference to a state of things believed at the time to exist; and, in interpreting its legislation, no aid can be derived from subsequent events. The project of building the road was not conceived for private ends; and the prevalent opinion was, that it could not be worked out by private capital alone. It was a national work, originating in national necessities, and requiring national assistance.

The policy of the country, to say nothing of the supposed want of constitutional power, stood in the way of the United States taking the work into its own hands. Even if this were not so, reasons of economy suggested that it were better to enlist private capital and enterprise in the project by offering the requisite inducements. Congress undertook to do this, in order to promote the construction and operation of a work deemed essential to the security of great public interests.

It is true the scheme contemplated profit to individuals; for, without a reasonable expectation of this, capital could not be obtained, nor the requisite skill and enterprise. But this consideration does not in itself change the relation of the parties to this suit. This might have been so if the Government had incorporated a company to advance private interests, and agreed to aid it on account of the supposed incidental advantages which the public would derive from the completion of the projected railway. But the primary object of the Government was to advance its own interests, and it endeavored to engage individual co-operation as a means to an end—the securing a road which could be used for its own purposes. The obligations, therefore, which were imposed on the company incorporated to build it must depend on the true meaning of the enactment itself, viewed in the light of contemporaneous history.

Here I desire to call attention to the report of the Commissioner of Railroads for 1885. Speaking of the Northern Pacific he says:

The eastern portion of the road has been completed to Ashland, the last section being accepted by the President January 6, 1885. On October 7, 1884, 25 miles eastward from Tacoma, constructed in 1877, were accepted; and on December 9, 1884, 37½ miles westward from the Columbia, and January 17, 1885, 25 miles more, were accepted.

The length of the company's road, including the Cascade branch, is 2,029.58 miles. It has leased 143.34 miles, and the length of its branches is 477.65 miles. The length of road finished would entitle the company to 43,200,000 acres of land. It had sold to June 30, 1885, 5,468,779.97 acres.

The rolling-stock consists of 391 engines, 167 with air-brakes; 274 passenger cars with train-brakes; and 9,217 freight cars of all kinds, 1,097 of which have train-brakes.

The terminus at Duluth and the recent extensions to Superior and Ashland give such excellent connections with the Lake Superior trade and with the railways from the ports South and East that its through traffic may be considered quite well secured at these points.

The road-bed has been well constructed throughout nearly the whole length; good provision made for drainage; bridges and trestles strongly built; good buildings put up at all stations; abundant water supply provided; and the track put in good order, much more than half its length being well ballasted with good gravel and stone.

It seems to me, Mr. Speaker, if we wish to do something practicable and practical we should pass the Senate bill that declares forfeited all

the granted lands coterminous with the uncompleted portions of the road. For myself I should be willing to except the lands along the Cascade branch, for the reason that the road there is being constructed about as fast as is humanly possible, considering the natural obstructions in the way; at the same time I would not make a point on that. Gentlemen may insist on passing the House bill, but I have no idea one of us here will ever live to see it become law.

In the mean time the settlers along the unbuilt portions of the road, on lands clearly forfeitable, are begging us for action; petitions signed by hundreds and hundreds of these hardy pioneers have been received by their Representatives on this floor begging Congress to do something for their relief, so that they may know when they have titles to their lands. They pray to be separated and relieved from the ever-returning attempt to forfeit the entire grant, or that portion between Bismarck and Wallula. They pray for speedy, separate relief for themselves first, and action, if we see proper, as to the rest afterward.

And exactly this, Mr. Speaker, the Senate bill gives us an opportunity to do—the last section providing as it does that the act shall not be construed to estop the Government from proceeding in future against the rest of the grant. If we refuse this, if we turn a deaf ear to the prayers of these settlers, it will not be long before they will lay the blame of our non-action at the right door. Session after session Congress goes through this farce of demanding what we know we can not get, and nothing is done, and no relief is furnished to anybody.

Each succeeding Congress we commence where we left off, and at the close of the session we leave off where we commenced. Some day our masters, the people, will get tired of this game of hide-and-seek, fast-and-loose, and will send men here who will act and will effect something.

Mr. Speaker, I am just as anxious as any member on this floor to forfeit every acre of land that has been granted to railroads or other corporations or enterprises, and which they have not earned. The people demand such forfeitures, and they demand speedy action, and they are right, and it is our bounden duty to execute their will in this respect. Why, sir, there is no official, no body, no man in this Capitol or in this country that is or can be superior to or independent of the will of the people. And it is equally certain the people do not and will not demand an unjust thing. Why, sir, what does the forfeiture demanded by the majority of the committee mean? That the Government, the representatives of the people, shall forfeit the grant of these lands, utterly reckless and regardless of all rights, not of the railroad simply, but of the innocent holders of their bonds, of the settlers all along the line of the road, of the purchasers of these lands, and of the multitudes of rights and interests which for years have been both accumulating and maturing in connection with this grant.

Are there no people living along the long line of this road worthy of our consideration? Have no rights grown up there which we are bound in all fairness and strict justice to regard? Can we now enter as of our first estate? Suppose we can and do forfeit all these lands and enter, what will be the state of affairs? Well, we shall resume the grant, take back all the lands on the faith of which the money was loaned which built the road and developed that vast country. We shall ignore the rights of every person who has invested honest money in bonds or lands. We shall have the lands we have reserved, the even-numbered sections, doubled or trebled in value by the road, and the others, the odd-numbered sections, the ones we forfeit, according to the argument of some gentlemen quadrupled in value, an immense accretion and aggregate of wealth literally created by this very road. We shall get all the advantages of the road. We shall get just that for which the grant was made—and then get back the lands largely increased in value. We shall impoverish vast numbers of purchasers and holders of these lands, and owners of the bonds—but we shall have all the lands. We shall have the road with all its measureless advantages, while all these others, who trusted in the good faith of their Government, shall have nothing! Mr. Speaker, I do not believe the people, our masters, demand at our hands any such course of conduct. The people, sir, are not unjust, they are not cruel, they ask at our hands only even-handed justice, and this, so long as I remain in public life, I shall endeavor, so far as in me lies, to mete out to all comers without regard to ephemeral popular clamor and without regard to the position, standing, wealth, or poverty of the comers!

The SPEAKER *pro tempore* (Mr. McCREARY). The Chair will inform the gentleman from Mississippi [Mr. VAN EATON] that he has consumed fifty-five minutes of his hour.

Mr. VAN EATON. This argument ought to go on a little longer. I ask that I may have fifteen minutes in addition to my hour.

Mr. COBB. I object.

Mr. VAN EATON. I would like to finish my argument.

Mr. BUTTERWORTH. I hope the time which the gentleman from Mississippi asks will be granted. This is a matter of very great consequence.

Mr. HENLEY. How much time does the gentleman desire to occupy?

Mr. VAN EATON. I desire an hour and a quarter in all.

Mr. HENLEY. I have no objection, but I give notice that I propose to adhere to my original determination in regard to calling the previous question.

SEVERAL MEMBERS. We will vote that down.

Mr. VAN EATON. I hope there will be no objection to giving me an hour and a quarter.

The SPEAKER *pro tempore*. The gentleman from Mississippi asks an extension of fifteen minutes beyond his hour.

Mr. COBB. I object.

Mr. HENLEY. I consider that the fate of this bill depends on reaching a vote to-day.

Mr. REED, of Maine. I think after eight months' waiting we can afford to give some time to this discussion.

Mr. COBB. It is not necessary for the gentleman from Maine to be making charges against the committee.

Mr. REED, of Maine. No, it is not necessary; that is so.

The SPEAKER *pro tempore*. The gentleman from Indiana [Mr. COBB] objects to the extension.

Mr. VAN EATON. I hope the gentleman will not insist on the objection.

Mr. COBB. Let the time be granted by some of your friends. We want to reach a vote.

Mr. HERMANN. I give notice that, representing a great State in the Northwest directly interested in this question, I propose to ask for at least thirty minutes. It is neither courteous nor just to the great Northwest that we should be cut off in this manner.

The SPEAKER *pro tempore*. Does the gentleman from Mississippi yield five minutes to the gentleman from Wisconsin [Mr. PRICE], or does he propose to occupy all his time himself? The gentleman has five minutes more in his own right, but the Chair was informed that he had agreed to yield those five minutes to the gentleman from Wisconsin.

Mr. VAN EATON. I trust I may be allowed ten minutes additional.

Mr. HENLEY. I would have no objection if we could arrive at an amicable understanding, but I have understood—

Mr. REED, of Maine. Let us have the regular order.

Mr. HENLEY. Precisely. I was about to say that there is an evident disposition to defeat this bill at any rate by the consumption of time, and I do not see that anything is to be gained by attempting to reach an understanding.

Mr. VAN EATON. Mr. Speaker, when this wrangling commenced the Chair stated that I had five minutes remaining. Certainly this colloquy is not to be deducted from my time, and I ought to have five minutes now. I yield those five minutes to the gentleman from Wisconsin, and ask leave to print the residue of my remarks.

Mr. HENLEY. I believe there has been a general leave to print.

Mr. NEGLEY. No, there has not been.

The SPEAKER *pro tempore*. The gentleman from Mississippi asks permission to print the residue of his remarks in the RECORD, and without objection permission is granted. The Chair hears no objection.

Mr. HENLEY. Do I understand that the request is for general leave to print?

Mr. VAN EATON. I believe I will make the request general.

Mr. HENLEY. I object to a general leave.

The SPEAKER *pro tempore*. The gentleman from Mississippi asks that all members be allowed to print in the RECORD their remarks on this bill.

Mr. REED, of Maine. I object.

Mr. HENLEY. I object to the gentleman from Mississippi being allowed to print. Let him control those who are on his side.

Several MEMBERS. The objection comes too late.

Mr. VAN EATON. I had permission already.

Mr. COBB. I understood the gentleman from Mississippi was granted leave to print additional remarks in the RECORD on condition that the same privilege was granted to others.

The SPEAKER *pro tempore*. The Chair so understood.

Mr. COBB. And objection being made, he can not print.

Mr. HENLEY. I objected under a misapprehension. I am reminded that while I was speaking I asked leave to print in my remarks something which I had not time to read, and leave was granted me. I am therefore not in condition to object to the gentleman from Mississippi having such leave.

The SPEAKER *pro tempore*. The Chair will state the request again. The gentleman from Mississippi asks permission to print in the RECORD the residue of his remarks.

Mr. REED, of Maine. I understand the gentleman from Mississippi already has permission—

The SPEAKER *pro tempore*. Without objection, the permission is granted. The Chair hears no objection.

Mr. REED, of Maine. I understood the gentleman from Mississippi had fifteen minutes to conclude his remarks.

The SPEAKER *pro tempore*. No; there was objection to that request.

Mr. REED, of Maine. By whom was the objection made?

The SPEAKER *pro tempore*. By the gentleman from Indiana [Mr. COBB].

Mr. COBB. I made the objection.

The SPEAKER *pro tempore*. The gentleman from Wisconsin [Mr. PRICE] is now entitled to occupy the floor for five minutes, granted to him by the gentleman from Mississippi [Mr. VAN EATON].

Mr. PRICE. Mr. Speaker, this is a proposition to forfeit 6,170,640 acres of land yet unearned on 340 miles of road now unconstructed, and also to forfeit 30,737,101 acres on 1,492 miles of road constructed since the expiration of the time named in the original grant. As I imperfectly caught the remarks of the gentleman who advocated the passage of this bill, he referred to declarations made by the several political platforms in 1884 on this question as a justification for pursuing the course indicated by this bill. I desire to call attention to the fact that no political party that ever had existence has by any declaration in any platform ever enunciated any such doctrine. Take the Republican platform of 1884, and we find this language:

We demand of Congress the speedy forfeiture of all land grants which have lapsed by reason of non-compliance with acts of incorporation, in all cases where there has been no attempt in good faith to perform the conditions of such grants.

That certainly does not justify the passage of this bill.

Take the platform of the Democratic party of 1884 and we find this language:

We believe that the public land ought, as far as possible, to be kept as homesteads for actual settlers; that all unearned lands heretofore improvidently granted to railroad corporations by the action of the Republican party should be restored to the public domain, and that no more grants of land shall be made to corporations, or be allowed to fall into the ownership of alien absentees.

"All unearned grants!" Nobody will pretend to say there has not been by virtue of this grant 30,737,101 acres earned since the expiration of the time limited by the original grant.

Next we find that the anti-monopoly national convention said:

That no further grants of public lands shall be made to corporations. All enactments granting land to corporations should be strictly construed, and all land-grants should be forfeited where the terms upon which the grants were made have not been strictly complied with. The public lands must be held for homes for actual settlers, and must not be subject to purchase or control by non-resident foreigners or other speculators.

That certainly will not justify the forfeiture of this land which has been earned by the construction of this road.

One other party and I am done.

A MEMBER. What party?

Mr. PRICE. I will read a plank from the platform of the Prohibition national convention—a party small in numbers but magnificent in its principles. [Laughter and applause.] Yes, gentlemen, a party behind which is a more vital principle than ever governed any political party which ever rose or ruled or exists or has fallen in this country. This party platform affords no justification on the part of this Government to violate the contract under which this railroad corporation has gone on to finish its road.

A MEMBER. You have not read what the platform of that party is.

Mr. PRICE. I will read from the platform of the Prohibition national convention of 1884:

That the public lands should be held for homes for the people and not for gifts to corporations, or to be held in large bodies for speculation upon the needs of actual settlers.

You and I, Mr. Speaker, and all of us were before the people on these various platforms avowing the doctrine which has been expressed in the language I have read to the House. We must stick to our pledges to the people, and if we do observe the spirit of those pledges, it is not possible that we can advocate the forfeiture of the land granted for the construction of this Northern Pacific Railroad. It has been earned by that corporation under an implied contract, upon which they have gone on to finish the road. Such forfeiture, I may say, would be inequitable.

I deny there was ever an acre of land given to this road. It was a fair contract by which the Government was to be the beneficiary, and by which the road was to be also benefited. The Government was to be benefited in the construction of the road so that emigrants might be able to get into and open up to settlement and cultivation that then almost inaccessible Territory. In consideration of the construction of this road for that purpose the corporation was to be compensated by this grant of lands.

As I have said, it was a fair contract, with obligations on both sides, and no one can say the road has not fulfilled fairly its part of the contract to the extent that it is built.

While the Government was justified under the then existing circumstances in accepting such a policy, change of circumstance makes a change of policy necessary. It was necessary at that time to do as we did, but under all the circumstances we do not now wish to go further. I am willing to bow to the very general sentiment which seems to prevail throughout the country on the subject of withholding further land grants, but I am opposed to doing any injustice under the contract we have made with this road, or to violating the pledges made by the several parties in national conventions, under which we have been elected to seats upon this floor. Every principle of justice is hostile to the destruction of the right inherent in this road by reason of the contract which it made with the Government.

We will not pretend to interfere with that contract if we are wise. If we do, every good lawyer will see at once they will only have to carry the investigation into the courts to secure every acre of the land belonging to the road as its part of the consideration under that contract with the Government.

This bill is wrong in principle, illegal, illogical, and contrary to the stipulations and pledges upon which at the last election we went before the people of the United States and were elected to this House of Representatives.

Mr. NEGLEY. And it is the sheerest demagogy.

Mr. PRICE. Yes, demagogy of the cheapest class. Let us stick to our promises. We have received our consideration under the contract; let us not deny to the road the consideration which belongs to it under the same contract.

It is true they only built a part of the road within the time limited, but it is equally true that they have built 1,492 miles since that time in good faith, and we have raised no protest against it, but have stood by and justified it by examining it and accepting it, and have compelled the company to carry our mails at the reduced rates allowed to land-grant roads, by which reduction we have been benefited over a million dollars.

Strike from the bill the provision forfeiting the lands earned between the time limited by the grant and the passage of the bill, and I will join its friends in forfeiting the lands unearned at this time; and I do this more in obedience to the will of the people as expressed in platforms to which I have subscribed than because I believe it to be right.

My own idea is that all grants that are now being earned in good faith should remain undisturbed.

[Here the hammer fell.]

Mr. VOORHEES. Mr. Speaker, when, on the 2d day of July, 1864, Congress passed the act granting lands to aid in the construction of the Northern Pacific Railroad, there was entailed upon all the communities through which the road extends the blighting and far-reaching curse which inevitably attends the control of large landed estates by corporations.

Born, as it was, in the midst of falling homes and shattered heartstones, when the wheels of progress were clogged by the disasters of civil war, this corporation, through all the years of its existence, seemingly drawing its inspiration from the unsettled period of its creation, has been essentially a stumbling-block and an obstruction in the way of the material progress of the country through which it passes. For nearly a generation the people of Washington Territory have watched and waited for the consummation of this enterprise, to aid in the completion of which Congress granted, with unexampled munificence, nearly 50,000,000 acres of the public domain. They believed in the honeyed promises of this corporation. They believed that, fostered as it has been by the generous care of the Government, it would come as the evangel of a broader and more comprehensive civilization. They believed that in its coming they would find a mighty ally in their struggles to meet the rapidly increasing demands of the tax-gatherer. They congratulated themselves that the completion of this transcontinental highway would afford cheaper and more expeditious transportation for the products of their industry. These were the vain and illusive dreams of the hardy pioneer, whose unflinching courage and intelligent industry had overcome the savagery of man and beast, as well as of nature, long before the first evidences of the completion of this enterprise began to appear. The assurance had gone forth that the Northern Pacific Railroad Company was to be regarded as a "benevolent monopoly," which was to result in naught save the choicest blessings and benefits to the people.

Scarcely had the sound of the construction hammer with which was driven the last spike on that portion of the road which was completed in September, 1883, died away, when the people were rudely and savagely awakened from their dreams of security against corporate oppression because of the benevolence of their masters. With the completion of the greater portion of their road it was believed that Congress could be induced to ignore the flagrant breach in the conditions of the grants, and that there existed no further necessity for concealing the cloven foot which had up to that time been so cleverly hidden from public view. Big with this idea they have dominated the various governmental Departments, dictated the laws touching their interests, and have by every conceivable method endeavored to set at defiance every legitimate right of the people and to escape the exactions of any portions of the public burdens. By the exercise of their peculiar tactics they have succeeded in securing within the Territory of Washington immunity from the burdens of taxation in respect of all their real property. The present law providing a scheme for the taxation of railroad property in Washington Territory was born in the law offices of the attorneys of the Northern Pacific Railroad Company, and by them lobbied through the Territorial Legislature. With insufferable and amazing effrontery the principal counsel of this company in Washington Territory sought and obtained an opportunity to lecture the representatives of the people in the Territorial Legislature upon their duties in providing for the taxation of railroad property.

The result of this intermeddling of railroad attorneys was the enactment of a law which, for cold-blooded and grotesque iniquity, has seldom, if ever, been paralleled in the entire history of bad legislation. After providing that 2 per cent. of the gross earnings shall constitute the full measure of taxation upon railroad property within the Territory, and providing a scheme for its collection, the very apex of infamy was reached when section 5 was incorporated into the law. On page

66 of the session laws of 1883 this villainous section is to be found in the following terms:

The lands of any railroad company shall become subject to taxation in the same manner as other similar property as soon as the same are sold, leased or contracted to be sold or leased; and on or before the 1st day of April of each year each railroad company having land within this Territory shall return to the county auditor of each county, full and complete lists, verified by the affidavits of some officer of the company having knowledge of the facts, of all lands of such company situated in said county, sold or contracted to be sold or leased, during the year ending the last day of December preceding; and the list furnished on or before the 1st day of April, A. D., 1884, in compliance with the terms of this section, shall include a complete list of all lands sold or leased, or contracted to be sold or leased prior to the last day of December, A. D., 1883.

A cursory examination of this section makes it painfully apparent that, so long as any railroad company holds the title to any real property in the Territory derived from any source whatever, such property is wholly exempt from its legitimate and just proportion of the public burdens. If, however, it should chance that some struggling pioneer, a little more favored than his fellows, has been enabled by frugal industry to lay aside a sufficient sum to purchase from such company a home, immediately upon the consummation of such purchase with the transfer of title all the burdens of taxation which properly belong to such property, and from which the company has enjoyed complete immunity, must be borne by such purchaser in order that the vast interests of such company may receive their full measure of protection under the laws. There is no exemption for the farmer. On the contrary, this law makes it necessary that he shall go to his daily labor a little earlier in the morning and work until the gathering shadows envelop the objects of his labor, in order that he may, in addition to his own taxes, pay those of the wealthy corporation as well.

Surely of these corporate spoilers was spoken the word of Agur, the son of Jaketh, even the prophecy:

There is a generation, whose teeth are as swords, and their jaw teeth as knives, to devour the poor from off the earth, and the needy from among men.

When the law has chanced to declare in their favor they have been most punctilious in their insistence that its provisions shall be rigidly and literally complied with. When, as has almost continually been the case, the law has been adverse to their claims and pretensions, they have simply placed upon it the tourniquet of official subserviency, its plainest mandates have been disregarded, and the people left to deprecate the cruel results of corporate dictation in high official places.

During the twenty-one or twenty-two years of Republican supremacy which have elapsed since this grant was made to the Northern Pacific Railroad Company, every demand for an honest and reasonable exposition of the law has been made in vain. "Corporation logic" has invariably proved too much for the judicial fairness of those intrusted with the interpretation of the law. In all the litigation of the past arising out of this grant, the people, whose rights have constantly been invaded, have been the plaintiffs, because of the unrighteous rulings of Republican officials. With the advent of Democratic officials positions have been reversed, the railroad company is now the plaintiff, and the people have been greatly advantaged by the change.

In advocating the passage of the pending bill I am simply demanding that which the law entitles me to demand. The friends of the road insist, however, that even admitting that a strict construction of the law would authorize a forfeiture in the premises, the extreme honesty of the corporation in all its transactions, and its perfect good faith in constructing the road, should entitle it to a generous measure of forbearance on the part of Congress. It is only necessary to refer to its earlier records to completely overthrow these flimsy pretensions.

In 1881 an effort was made to transfer, without any authority of law whatever, to certain favored individuals, 180,000 shares of stock of the Northern Pacific Railroad Company valued at \$18,000,000. Henry Villard objected to this proceeding, and filed a bill for an injunction to restrain the issuance of the stock. In his affidavit he uses this language:

After such preferred stock had been issued to the bondholders, to the creditors, and parties entitled to the same under said agreement, and after shares of common stock had been issued to all the then existing stockholders of the Northern Pacific Railroad Company who came in and surrendered their existing shares and took new common stock in the place of the same, there remained, as appears by the reports of the directors which have been published, an amount of shares of the common stock not required to satisfy the existing stockholders who were entitled to receive such shares in lieu of their former stock. Such surplus of shares amounted to one hundred and eighty thousand shares, or \$18,000,000. Such shares have never been brought to the public for subscription.

No money has been received or paid for the same, as I am informed and believe, at any time. It is not pretended that any money or other consideration has been received or paid for the same since the organization of the company. The said shares remain in the control of the company, and scrip or certificates as I am informed and believe, were issued for the same to the treasurer of the company, subscribing himself as a trustee. It has been publicly announced that at a meeting of the executive committee of the board of directors of the Northern Pacific Railroad Company, held on the 18th of March, 1881, it was determined to issue this 180,000 shares of stock and to make and deliver certificates for the same to certain persons who claim to be holders of certain interests which are known and described as "proprietary interests" in the Northern Pacific Railroad Company. Such interests have been quoted and sold in the stock market for some time past, selling for about 20 cents on the dollar, while the common stock of the said company has been at the same time selling for between 40 and 50 cents on the dollar.

These proprietary interests, as I am informed and believe, are alleged or pretended to have been created under some agreement made as long ago as the year 1867, between certain persons who assumed to create and issue all the stock,

to the amount of \$100,000,000, of the Northern Pacific Railroad Company, and to distribute the same among themselves. I have not been able to obtain a copy of this agreement, nor can I state who now are or claim to be the holders of all shares described as proprietary interests, and claimed to have been created under this agreement; but I am advised and believe that if any such agreement was ever entered into, it was annulled and canceled and rendered impossible of execution by the foreclosure of the mortgage to which I have referred, and the reorganization of the company.

The agreement to which he refers, and I read from the court records of the superior court of New York, so that there can be no question as to its authenticity, is as follows:

Whereas a charter has been granted by the Congress of the United States for a railroad and telegraph line from some point on Lake Superior in Minnesota or Wisconsin to Puget Sound, with the right to construct a branch to Portland, Ore., under the name of the Northern Pacific Railroad Company, and granting lands to aid in the construction of said road and telegraph to the amount of ten sections per mile on each side of said road in the States and of twenty sections per mile on each side in the Territories, which said grant of land amounts by estimate to nearly 47,000,000 of acres; and

Whereas the control of said charter and franchise is now in the hands of J. Gregory Smith, of Saint Albans, Vt., and his associates; and

Whereas said Smith and his associates have paid for the procurement of the charter and other expenses the sum of \$102,000 in cash—

Paid for the procurement of the charter from Congress—  
exclusive of any compensation for himself or his associates—

So determined and grasping were the demands upon that fund here in Washington that he could not save even a portion of it for the purpose of compensating himself and associates—  
and have issued the certificates of indebtedness of the company bearing interest from March, 1866, for \$100,000 additional, and have agreed to recognize the stock of the company issued by Josiah Perhem, late president of the company, to the amount of \$600,000; and

Whereas it is proposed for the purpose of providing—

Bear in mind that it was three years after the passage of the original charter that it occurred to these people that it was time to think of an efficient organization for the purpose of accomplishing results—

for the purpose of providing for the early commencement and prosecution of the work of construction of said road and telegraph, to effect an efficient organization of said company, and to procure from Congress—

Forty-seven millions of acres of the public domain did not constitute sufficient aid, it seems, but they were to make an effort to—

Procure from Congress additional aid therefor by way of subsidy, and such other legislation as may be necessary in the premises; and

Whereas it is proposed for the purpose of more convenient organization—  
More "convenient organization," not for the purpose of a lawful organization, but—

For the purpose of more convenient organization to divide the said enterprise into twelve shares to be valued at the rate of \$8,500 per share: Now, therefore, for the purpose above set forth, this agreement made and concluded this 10th day of January, A. D. 1867, between J. Gregory Smith, of Saint Albans, Vt., acting for himself and associates, of the first part, and such persons as may hereafter become subscribers to this agreement, parties of the second part,

Witnesseth—  
First. That each subscriber or party of the second part shall pay, on demand of said Smith, that sum of \$8,500 for each one-twelfth part or share in said enterprise, and in that proportion for any lesser part so by himself subscribed for; and upon payment of said amount each subscriber aforesaid shall, and he does thereby, become jointly interested with said Smith and his associates, according to the number of shares or parts of shares so subscribed for by him, in the charter and franchise of the Northern Pacific Railroad, with all its rights, powers, privileges, and immunities.

It will be borne in mind, Mr. Speaker, that section 10 of the act of July 2, 1864, provides—

That all the people of the United States shall have the right to subscribe to the stock of the Northern Pacific Railroad Company, until the whole capital named in this act of incorporation is taken up, by complying with the terms of the subscription, &c.

The subscriptions were to be opened to the public generally, and not to be confined to a few. But the provisions of this section did not suit the purposes of this small coterie who were endeavoring to swallow up this immense franchise for the trifling sum, in comparison with its value, of \$102,000; so they were incontinently ignored.

In his complaint, in the action referred to, Mr. Villard thus characterizes this feature of the agreement:

The plaintiff alleges, on his information and belief, that the parties or persons to whom such stock was issued, or directed to be issued, claimed the same under and by virtue of some agreement made before the foreclosure and reorganization of said railroad, by which agreement certain parties undertook to divide among themselves all the capital stock of the said corporation, without offering the same to public subscription, and without paying any money for the same, as required by the said acts of Congress and the law of the land, and this plaintiff avers the fact to be that said agreement, if any such agreement there were, was fraudulent, illegal, and void; that neither the parties making the same nor the directors of the said company-corporation, nor the defendants hereinbefore named, had any right, power, or authority to make or issue any shares of stock of the said corporation, whether the same be designated as preferred or common stock, except upon an open and public subscription to be offered to all the people of the United States, nor except upon receiving for the same the sum of \$100 in cash for each and every share so issued.

This indicates, among other things, that at the very threshold the Northern Pacific Railroad Company was inspired with no purpose or desire to carry on its operations within the clear scope and purview of the law. All of the law made and provided for its government was set at defiance at the very outset.

The agreement continues:  
Second. It is mutually agreed by and between the parties that the best efforts of each and all shall be given to obtain from Congress the passage of a bill grant-

ing aid to the said company for the construction of said road and telegraph, and for such further legislation as may be needed; and that each party shall contribute according to the interest that he holds, the necessary funds for that purpose; said moneys and expenses to be paid and incurred under the direction of a committee to be appointed for that purpose.

Third. It is further agreed that each share in the enterprise shall be entitled to one director in the company to be elected at the next annual election of the board, and that in the mean time the vacancies that can now be obtained by the resignation of present members may be filled from such parties from among the subscribers hereto as may be by them designated.

Fourth. That as soon as the necessary legislation from Congress can be obtained a meeting of the subscribers shall be held at an early day to make such further organization as may be advisable, with a view to the commencement of the work of construction of said road and securing the land granted by the charter.

Fifth. Each party hereto may subdivide his interest according to his own choice, the subdivision and addition of new parties, however, not to change the mode and manner of representation in the management as set forth above.

I advert to these earlier records to emphasize the assertion that there never has been an honest purpose on the part of this company to proceed in accordance with the law.

For nearly three years after the passage of the act of 1864 practically nothing was accomplished toward the inauguration of work upon this enterprise. On the 10th day of January, 1867, the above agreement was executed, which told the story of the corruption which presided at the birth of this "benevolent monopoly."

From this agreement it will be seen that the first steps taken by this corporation were steeped in fraud and infamy. From the very outset it developed into a combination for the purposes of individual aggrandizement, by most questionable methods, and each succeeding management has religiously adhered to this cardinal principle of the organization.

Until the 20th day of May, 1869, the records show that the holders of these proprietary interests faithfully and zealously waited for something to turn up. On that date an agreement was executed with Jay Cooke & Co. looking to some substantial result.

Five years had elapsed since the granting of the charter by Congress, during which time the projectors of this enterprise had been so busily occupied in an effort to purchase the Congress of the United States that they had no time to even attempt a compliance with the terms of the act of 1864, nor is there any evidence that they ever contemplated doing so until it became certain that such compliance would result in their individual advancement.

An enterprise which is founded as the records show this to have been can at no stage of its existence be said to be characterized by any degree of honesty or good faith.

In addition to the corrupt tendencies of this corporation thus evidenced, there has never been that degree of good faith in the construction of the road which would entitle it to the special consideration of Congress. The work of construction was not even begun until 1870, six years after the granting by Congress of this magnificent charter. Congress originally intended that the road should be constructed as the result of the sale of the stock of the corporation. This intention is made manifest by the provisions of section 10 of the act of 1864, that "no mortgage or construction bonds shall ever be issued by said company on said road, or mortgage or lien made in any way except by the consent of the Congress of the United States."

It is evident, however, that there never existed a purpose on the part of the managers of this "gift enterprise" to construct the road within the scope of this well-defined intention of Congress.

On the 31st day of May, 1870, they procured from Congress permission to mortgage their franchise and other property interests, and then, and then only, was any substantial step taken toward the accomplishment of the result foreshadowed in the act of July 2, 1864. Every mile of this long line of road has been constructed with the proceeds of the sale of the mortgage bonds contemplated in the act of May 31, 1870. The individual capital of not one of the projectors of the enterprise has ever been for an instant jeopardized or endangered.

Whenever they could negotiate their mortgage bonds they resumed work on the road. Whenever the bonds could not be negotiated and the prosecution of the work required any investment whatever of private capital a deadly paralysis settled upon all their operations. The entire history of this corporation conclusively demonstrates that in its incipency and throughout all its stages it was designed to enhance the personal fortunes of a few; and that the road was constructed only so fast as would contribute to such a result.

In the language of section 20 of the act of July 2, 1864, the object of said act was "to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order." The policy of this company has always been of such a character, however, as to lead to the conclusion that corporation construction has been wholly unable to distinguish between the "public interest and welfare" and the pecuniary advancement of the individual members of the corporation by whatever methods. Manifold illustrations of this policy might be given. In a single illustration, however, to which I shall direct attention, will be found all the *indicia* of highway robbery and piracy on the high seas, sufficiently marked to emphasize the company's entire policy.

More than twenty years ago, when the suggestion of transcontinental railroad communication was regarded as the offspring of the theorist and

the dreamer, a few hardy spirits, who had picketed the outposts of civilization, planted a pioneer town in the Yakima Valley in Central Washington Territory, and called it Yakima city. Year by year they zealously guarded their isolated offspring until they saw it develop into a thriving, beautiful town, the commercial center of an exceedingly rich agricultural region. Under their progressive touch it became the largest town within a radius of 100 miles, and assumed sufficient importance to justify the Territorial Legislature in clothing it with all the functions of a city by an act of incorporation.

From the beginning the Northern Pacific Railroad Company had given the inhabitants of this little city every assurance that the coming of the road meant permanent prosperity for them. The clouds of frontier deprivation were to be rolled back, and the sunshine of an assured and permanent growth was to envelope the results of more than twenty years of frugal industry and toil. Many made modest investments, from scant means, in the town, with the purpose of realizing the legitimate profits certain to attend the arrival of railroad facilities. In this instance, as in every other, however, they who placed any reliance in the promises of this corporation found themselves the victims of Panic faith.

Up to the time of the completion of the road to Yakima city it was supposed that the Northern Pacific Railroad Company had sounded all the depths and shoals of corporate infamy and rapacity. It remained for it, however, to emphasize, in its conduct, the most heartless, ruthless, and damnable transaction ever known to the full history of corporate speculation. To deliberately set on foot and push forward a speculation in ruined homes, shattered fortunes, and broken hearts requires such colossal and gigantic scoundrelism that the mind instinctively shrinks from its contemplation. And yet this is just what the Northern Pacific Railroad Company did in dealing with Yakima city.

When the time came for striking the blow, they pushed their road through the corporate limits of the old pioneer town of Yakima city to a point about 4 miles beyond and there located a town upon one of the odd sections embraced within the limits of the grant so long since forfeited by the company, and called it North Yakima. Certainly no one will seriously contend that Congress in its wildest flights of imagination ever contemplated that its bounty should become such an engine of oppression and destruction as it thus developed under the skillful manipulation of this company. The fact that this move carried consternation into many a hard-earned home was not sufficient to turn them from their nefarious purpose.

The fact that in pursuing such a course they advertised themselves as the monumental liars of the century was insufficient to deter them from the infamy. The fact that bankruptcy and ruin hovered over many a household as the result of the success of the assault upon the old town seemed to urge them to renewed effort. It mattered not to them that the old town had been made sacred by the associations of nearly a generation; that within its precincts children had grown to manhood and womanhood; that within its quiet churchyard "the rude forefathers of the hamlet sleep;" and in short, that all the tender and beautiful memories of home, both joyous and sad, were rudely trampled upon and uprooted.

Seemingly fearful lest, with any encouragement whatever, the feeling of devotion to the home of nearly a generation might induce a resistance to this scheme of pillage and plunder, the order was issued to afford the old town no railroad facilities whatever. Every passenger residing in Yakima city who was forced to ride over the road was compelled to go to North Yakima to take the train, notwithstanding the fact that every train passed directly through the center of the old town.

People walked about as in the shadow of a great bereavement and cursed the evil hour in which Congress chartered so villainous a combination. A more daring, shameless outrage has no place in the wide range of corporate villainy.

It is marvelous that in the face of such an exhibit as this any one can be found to insist that this corporation is entitled to any consideration save that which belongs to the common marauder upon the property of others. It is entitled to no consideration at the hands of honest people.

Alaric and his Goths would have blushed to have been charged with such wholesale and comprehensive villainy.

Do I misrepresent my constituency in thus boldly denouncing the crushing methods of corporate brigandage? As demonstrating that the people are actively alive to their present wrongs, I read from a petition to Congress recently received, signed by 438 citizens of Klikitat County, in which the characterization of this company's methods is none too pronounced:

"That the policy of the company has been such as to alienate the affections and good-will of the people of the Territory; that they have discriminated in rates; that they have induced settlers to locate on and improve their lands under a circular notice that they would be sold for \$2.60 per acre; but that as soon as they obtained title to said lands, the value of which had been enhanced by the labor that had been bestowed upon them by reason of this promise, the company shamefully and unblushingly broke faith with the people and demanded and collected from \$2.60 to \$18 per acre, the average being about \$5 per acre; thereby reaping the benefits of their own fraudulent violation of contracts and compelling the settlers to pay them exorbitant prices for the land, or to see the fruits of the labor of years pass into the hands of strangers, speculators, and swindling adventurers.

That the history of this company is a chapter of broken promises, misrepresentations,

sentations, and double-dealing; that it has cheated the people, juggled with their most vital interests, and betrayed their confidence until there is a feeling of distrust and fear seizing those who have settled and improved what is known as railroad lands; that the permanent settlement and improvement of the country is retarded; that the hopes and energies of the people are paralyzed, and that every material interest of the country is most seriously impaired.

A close and careful examination of the record of the Northern Pacific Railroad Company will convince the most skeptical that the only evidences of good faith evinced by its management have arisen not through any consideration whatever for the rights of the public, but from a desire to advance their individual interests.

Having established the utter lack of honesty or good faith in connection with the transactions of this company, it becomes important to ascertain just what power resides in Congress or elsewhere to restore to the people the lands withheld from settlement for so many years for the benefit of this company.

Section 3 of the act of 1864 contains the following granting clause:

That there be, and hereby is, granted to the Northern Pacific Railroad Company, its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line to the Pacific coast, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores over the route of said line of railway, every alternate section of public land, not mineral, designated by odd numbers, to the amount of 20 alternate sections per mile, on each side of said railroad line, as said company may adopt, through the Territories of the United States, and 10 alternate sections of land per mile on each side of said railroad whenever it passes through any State, and whenever, on the line thereof, the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from pre-emption or other claims or rights at the time the line of said road is definitely fixed and a plat thereof filed in the office of the Commissioner of the General Land Office.

It has been held by the Supreme Court repeatedly that the words "there be, and hereby is, granted" import a present grant when unaccompanied by words which restrain their present operation. These words of restraint in the present grant are to be found in section 8 of said act, which is as follows:

And be it further enacted, That each and every grant, right, and privilege herein are so made and given and accepted by said Northern Pacific Railroad Company upon and subject to the following conditions, namely: That the said company shall commence the work on said road within two years from the approval of this act by the President, and shall complete not less than 50 miles per year after the second year, and shall construct, equip, furnish, and complete the whole road by the 4th day of July, A. D. 1876.

This section is mandatory and provides that the acquisition of each and every "grant, right, and privilege" is dependent upon the construction of the road within a specified time. This section was subsequently amended so as to fix the time as the 4th day of July, 1877. The Committee on Public Lands have fixed the 4th day of July, 1879, as the date of the expiration of the grant. In this conclusion I am unable to agree. A careful analysis of the legislation in this connection I think will establish the 4th day of July, 1877, as the date. Did these two sections stand alone, there is no doubt but that, in order to acquire title to any of the lands contemplated by the act, the entire road should have been located and constructed within the time specified.

Section 4, however, contains certain provisions from which the conclusion is possible that Congress intended that as fast as each section of 25 miles was completed the company should receive patents for the lands lying opposite to and conterminous therewith; but in view of the provisions of section 8, it is absolutely essential that each section of 25 miles must have been constructed within the time specified, to entitle the company to the issue of patents for the lands conterminous therewith.

From a careful consideration of all the legislation in the premises, I am justified in the conclusion that this is a grant upon conditions precedent, and that time is one of these precedent conditions.

Throughout the act of 1864 the intention of Congress to throw around its princely generosity the safeguards of a condition precedent is manifest.

In addition to the conditions to be found in section 8, section 19 contains a most pronounced precedent condition in the following language:

And be it further enacted, That unless said Northern Pacific Railroad Company shall obtain *bona fide* subscriptions to the stock of said company to the amount of \$2,000,000, with 10 per cent. paid within two years after the passage and approval of this act, it shall be null and void.

By the terms of this section unless certain results are accomplished within a period of two years after the passage and approval of the act it shall be null and void. This section indicates very clearly the intention of Congress relative to the character of the conditions contained in the grant from the beginning to the end. There is nothing that antagonizes the position that Congress intended that certain well-defined results should be attained by this company before they should become entitled to any portion of the land grant contemplated.

Section 20 of the act of 1864 provides that Congress may add to, alter, amend, or repeal the act, having due regard for the rights of the said Northern Pacific Railroad Company. Every step taken by Congress within the scope of this provision most conclusively fixes the status of the grant as one upon conditions precedent.

In the United States *vs.* Freeman (3 How., 556), the Supreme Court of the United States thus lay down the rule governing the construction in such cases:

The correct rule of interpretation is, that if divers statutes relate to the same

thing they all ought to be taken in consideration in construing any one of them; and it is an established rule of law that all acts *in pari materia* are to be taken together as if they were one law. If a thing contained in a subsequent statute be within the reason of a former statute, it shall be taken to be within the meaning of that statute; and if it can be gathered from a subsequent statute *in pari materia*, what meaning the Legislature attached to the words of a former statute, they will amount to a legislative declaration of its meaning, and will govern the construction of the first statute.

In the act of July 15, 1870 (16 Stat., 305), Congress exercised the power conferred upon it in section 20 of the original act, and provided:

That before any land granted to said company by the United States shall be conveyed to any party entitled thereto under any of the acts incorporating or relating to said company, there shall first be paid into the Treasury of the United States the cost of surveying, selecting, and conveying the same to the said company or party in interest.

In Railroad Company *vs.* McShane, 22 Wall., 462, the Supreme Court, in determining the character of the condition created by a provision identical with this, reached the following conclusion:

That the payment of costs of surveying of the land is a condition precedent to the right to receive the title from the Government can admit of no doubt. Until this is done the equitable title is incomplete. There remains a payment to be made to perfect it.

In a case involving the settlement of just this question, in which the Northern Pacific Railroad Company was a party (Northern Pacific Railroad Company *vs.* Rockne), the Supreme Court recently affirmed its decision in the case just cited, and held that the act of July 15, 1870, embodied a condition precedent. Keeping entirely within the rule laid down in the case of United States *vs.* Freeman, if any legislative declaration was required to fix the status of this grant it is to be found in this act of July 15, 1870, which unequivocally declares the grant to be one upon conditions precedent.

Nor is this all the legislation of Congress bearing upon this point. Prior to this act Congress had put forth the most unequivocal legislative declaration of the meaning of the act of 1864. Recognizing the fact that the time within which this road should be completed was a condition precedent to the acquisition by this company of any right to enjoy any of the privileges enumerated in the act, by joint resolution 1866, 14 Stat., 355, Congress declared:

That the time for commencing and completing the Northern Pacific Railroad and all its several branches is extended for the term of two years.

Again, on July 1, 1868, the last day of the extension, work not having been commenced in accordance with the undoubted requirements of the law, and still regarding time as a condition precedent and as of the essence of the contract, Congress provided, 15 Statutes, 225, that section 8 of the act of 1864 should be amended so as to read:

\* \* \* That the said company shall commence the work on said road within two years from and after the 2d day of July, 1868, and shall complete not less than 100 miles per year after the second year thereafter, and shall construct, equip, furnish, and complete the whole road by the 4th day of July, A. D. 1877.

From this subsequent legislation the conclusion is irresistible that Congress originally, in 1864, made a grant upon conditions precedent, and that subsequently, in 1866 and 1868, becoming convinced that the grant must lapse for want of a compliance with its conditions within the time specified, new life was imparted to it by legislative action. At the expiration of this extension no further action was taken, and whether the limitation be taken as the 4th day of July, 1877, or the 4th day of July, 1879, no action was had on the part of Congress, and every acre of land opposite to and conterminous with the uncompleted portion of the road at that day was forfeited to the United States for the failure in the performance of a condition precedent, and became subject to entry under the public-land laws of the United States.

Up to and including July 4, 1877, the President of the United States was authorized to issue patents for the lands opposite to and conterminous with each section of 25 miles completed within that time. After the expiration of that period he was wholly without authority to issue any patents whatever in the premises. When Congress limited the time in which this road should be built it also limited the time in which patents might issue. This limitation was as operative in governing executive action as it possibly could be in determining the rights of the company. A temporary statute is in force up to the time for which it is made. (9 Bac. Abr., 223.)

"The time within which the condition precedent is to be performed is as much the essence of the contract as any other part of the requirement of the condition. Conditions precedent must be strictly, literally, and punctually performed; and if not so performed within the time provided, no act or declaration of forfeiture is necessary, and no subsequent performance can avail." (2 Dallas, 317; 6 Otto, 544.)

"Not even equity will relieve against failure to perform within the time allowed a condition precedent." (Willard's Eq. Jurs., 274-5; 16 Wallace, 229-30; Hilliard on Vendors, 184-5; Pomeroy on Contracts, 379.)

"Nor when the time of performing a condition, whether precedent or subsequent, is fixed by statute." (2 Otto, 68; 2 Story's Eq. Jurs., 103, 27.)

"Nor when time is the essence of the condition, whether precedent or subsequent." (Willard's Eq. Jurs., 294.)

The representatives of this railroad company who in 1866 and 1868 were clamorous for legislation preventing the death of their grant, are

at this time most diligent in their efforts to make it appear that this grant of lands was irrevocably dedicated for the construction of this railroad, and that it could not possibly be used for any other purpose. As sustaining this theory great reliance is placed upon the decision of Judge Deady, in the United States district court for the district of Oregon, on the 27th of June, 1882, in the case of *United States vs. William Childers*. In this decision Judge Deady holds "that the grant is not a grant *in presenti*, and that it was in effect a grant upon conditions precedent."

In this conclusion I agree. His suggestion, however, that it was the intention of Congress to set apart and devote the lands in question absolutely to the construction of the Northern Pacific Railroad is nowhere sustained in all the legislation of Congress upon this subject, as I think I have already demonstrated. Section 9 of the act of 1864 is not at all incompatible with the idea of a grant upon conditions precedent. This section reads as follows:

That the United States make the several conditioned grants herein, and that the said Northern Pacific Railroad Company accept the same upon the further condition that if the said company make any breach of the conditions thereof and allow the same to continue for upward of one year, then, in such case, at any time hereafter, the United States, by its Congress, may do any and all acts and things which may be needful and necessary to insure the speedy completion of the said road.

It will be observed that in this section, as in every other section in the act containing any essential provision, the consideration of time is an important one. By this section Congress is simply empowered to take such steps in the event of any breach of conditions as may be needful and necessary looking to the speedy completion of the road. Congress is not required to do so, but may do so or not in its discretion.

Section 9 can not be so construed as to justify or warrant the conclusion that Congress was directed by its provisions to build this road in the event of a failure on the part of the Northern Pacific Railroad Company to do so. The power of Congress to declare a forfeiture for a breach of the conditions of the grant is nowhere abridged, in section 9 or elsewhere in the act.

Had the Congress of the United States had in its mind in 1864 this irrevocable dedication theory, which is so conveniently invoked at this time, the task of substituting in the phrase "may do any and all acts and things which may be needful and necessary to secure a speedy completion of the said road" the word "must" would not have been surrounded by any serious or insurmountable difficulty. The fact is Congress meant exactly what it said, which simply was that it might, in the event of a breach of condition, devote granted lands to the construction of the road, should the public interest demand it, and that it might, on the other hand, restore the land to settlement and occupancy under the public land laws of the United States, should the public interest demand it.

The peculiar theory advanced by the railroad people was born of the necessities of the corporation and was not dreamed of until their grant expired by limitation of time because of the refusal of Congress to further extend its operation. In framing his decision Judge Deady has entirely ignored that condition of the grant which appeared to Congress to be of sufficient importance to justify two separate and distinct pieces of legislation. I refer to the condition of time. As I have already shown, almost every piece of legislation subsequent to the act of 1864 has been declarative of the meaning of said act.

If Congress contemplated by the act of July 2, 1864, a grant *in presenti* upon conditions subsequent, the act of July 15, 1870, which the Supreme Court of the United States has decided embodies a condition precedent, must be wholly nugatory, since it assumes to legislate with reference to property to which the United States has no title whatever. In the case of *The Northern Pacific Railroad Company vs. Iver L. Rockne*, county treasurer of Traill County, October term, 1885, in construing the act of July 15, 1870, the Supreme Court, instead of reaching such a conclusion, reaffirmed the decisions in the cases of *Railway Company vs. Prescott*, 16 Wallace, 603, and *Railway Company vs. McShane*, 22 Wallace, 444.

A simple present grant, as every lawyer knows, is a grant where the title, the fee-simple, passes with the act, by the words of the act itself, from the State to the grantee. It is equivalent to a deed in fee-simple to the property in question, and the State thereafter is completely divested of title, and can no more control the property the title to which has thus passed forever out of its hands than it can control property to which it never had the shadow of right, that may, perchance, belong to the same or any other citizen. To assume that Congress may retake to the Government all the pre-emptions and homesteads and grants that have ever been made by the Government is a proposition too monstrous to need discussion.

A present grant with conditions subsequent is a grant where the fee passes from the State to the grantee by the words of the grant itself, the deed, the instrument of transfer, the law itself containing a clause, which is a notice to all the world, that if certain conditions are not performed within a certain time the fee to the granted premises will revert to the grantor. It is like unto deed of gift of property to a daughter conditioned that if she should die without issue the property shall revert to the estate of the grantor.

A grant with conditions precedent is a promise that if the party to

whom the promise is made will perform certain conditions on or before a certain specified time the State will thereupon make to the grantee a full and complete title in fee-simple—issue its letters patent to the grantee or his assigns.

Observe that neither a simple present grant, nor a present grant with conditions subsequent, requires patent, for if the fee does not pass by the words of the act itself, if the act does not pass the fee from the State to the grantee, the grant is less than a present grant, either simple or with subsequent conditions. Hence as the law constitutes the transfer, after the passage of the act the Government, no longer possessing the fee in the land, can lend no additional validity to the title by the issuance of a patent.

Where a grant is upon precedent conditions Congress might convert its promise into a grant *in presenti* upon conditions subsequent, or might give it full fruition by adding a fee-simple absolute—a simple present grant. Congress could transfer any title or remnant of title the Government might possess; but Congress can not grant that which it does not own.

Now if the fee in this property passed from the United States prior to July 15, 1870, as it must have passed had there been a grant *in presenti*, simple or with conditions subsequent, the Government could not then require the performance of a condition precedent to the transfer of the fee, for it had already parted with the fee. The Government can not take the property of a citizen from him and require him to perform a precedent condition before he can again be vested with his property. It must of necessity follow that if on July 15, 1870, the company was vested with a present grant the act of that date was wholly nugatory and of no effect; and if the act of July 15, 1870, was a valid piece of legislation, as held by the Supreme Court of the United States, the previous grant was a grant upon conditions precedent. It could not have been otherwise.

Having clearly demonstrated the power of Congress to declare this grant forfeited for non-compliance with the plain and manifest conditions of the contract, it becomes important to determine from the standpoint of public policy the propriety of exerting that power, which it undeniably possesses. A brief but careful examination of all the facts in the premises will conclusively prove that this grant of lands has been a scourge and curse to the people. At the very threshold of the grant a monstrous iniquity was imposed upon the toil and labor of the pioneer settlers of the remote regions of the Republic.

Congress in 1864, instigated by this corporation, provided that every settler upon the even sections within the railroad limits should pay \$1.25 more for his land than he who had planted his home outside the baleful shadow of this grant. Every settler who, because of the crowded condition of the public domain, has been forced, in pursuit of a home, within the limits of this railroad grant, has been forced as a condition precedent to the acquisition of his home to make a donation of \$1.25 per acre to reimburse the Government for the lands granted to the Northern Pacific Railroad Company. It is in the nature of a special tax imposed by Congress on all the people for the building up of an enterprise which has for its ultimate object the enrichment of those connected with it.

I submit that it is most difficult to conceive of a more unrighteous piece of legislation. The capitalist who dwells in the cities, in that far away western country, pays no such price for the privileges of railroad communication. In addition to all this, after having laboriously gathered together and paid the increased demands arising out of the presence of this railroad grant, an additional burden is imposed upon them of paying all the additional taxes made necessary in the protection of such large and varied property interests. It is well known that this railroad company pays no taxes, unless forced to do so in the court of last resort. These considerations are most weighty and deserving of the gravest attention. They, however, become practically insignificant when we proceed to the consideration of the infamous contract upon which is based the conveyance of the company's alleged title to these lands.

By its provisions every public burden chargeable upon the land is lifted from the broad and stalwart shoulders of the company and put upon the weak and overburdened shoulders of the settler, carrying out the avowed policy of the company to pay no taxes when able in any manner to avoid so doing. Although exempt from taxation on its lands in the Territory, by Territorial legislation, while the title remains in the company, for fear that in some inconceivable way it might become subject to some measure of the burden, piratical ingenuity inserted the following in this indefensible contract:

The purchaser shall, so long as the contract remains in force, pay all taxes and assessments, ordinary and extraordinary, that may be levied or assessed, or that may become chargeable on the premises or any part thereof; and all buildings and improvements that shall be erected, placed, or made thereon, shall not be removed therefrom, but shall be and remain the property of the company until the contract shall be fully performed by the purchaser; and should default be made in any of the payments of principal or interest, at the time for the payment thereof; or in case the purchaser should fail to pay the taxes or assessments upon the land, the contract, at the option of the company, shall be null and void, and all the payments that shall have been made on the land, and all the building and improvements shall be and forever remain the absolute property of the company, and the purchaser shall have no right or claim thereon, it being expressly understood that time is of the essence of the contract, and that the performance of each and every of the covenants and agreements is as much

a part of the consideration of the contract, and a condition-precedent, as the payment of the purchase-money.

How like the exactions of the feudal barons these unconscionable restrictions appear! How entirely devoid of anything like common decency they are! When some one is to be oppressed "time is the essence of the contract." When an assault is in contemplation upon the scanty accumulations of daily toil "the performance of each and every of the covenants and agreements is as much a part of the consideration of the contract, and a condition precedent, as the payment of the purchase-money." When an outraged people demand the literal construction of the conditions precedent in the act of July 2, 1864, a change comes over the spirit of this "benevolent monopoly," and that condition which, in their infamous contract is precedent, becomes subsequent in the act of July 2, 1864.

Having thus mortgaged the bone and sinew of the country, it was necessary to suggest some method of foreclosure, so the following altogether one-sided provision was inserted:

And in case the purchaser should fail to pay, when due, any installment of principal or interest, or to pay any taxes or assessments at the date when the same shall become payable, or shall be in default in respect of any other condition of the agreement, the whole amount of principal unpaid shall at the option of the company become due and payable forthwith, with interest thereon at the rate of 10 per cent. per annum until paid.

It would seem from such a showing that the limits of oppression had been reached. The purchaser has an expert to deal with, however, in matters of this kind, so he must submit to the following additional burden:

The company reserves a strip of land extending through the land sold (or so much of such strip of land as may be within the sold premises) of the width of 200 feet on each side of the center line of the Northern Pacific Railroad or Cascade branch, or 50 feet on each side of the center line of any other branch or other railroad operated or to be operated, in whole or in part, by the company, to be used for right of way, or other railroad purposes, in case the line of the Northern Pacific Railroad has been, or of such branch or other railroad as has been or shall be, located on or over or within 200 feet respectively of the premises; and the purchaser shall, on receiving notice so to do from the company, erect a good and substantial fence, sufficient to turn stock and to comply with the requirements of law, on the line or lines between any part of the premises and the lands reserved to the company for right of way on other railroad prior and herein expressed; and thereafter shall maintain such fence or fences in a good, substantial, and sufficient manner. The company reserves the coal and iron in certain of its lands in Montana and Western Washington.

Herein is provided a burden to which there is no end. It is a continuing, never-ending incumbrance. Through all the generations of a family the power of this company to run a branch road over any portion of the purchased premises is assured.

Does any one doubt that such incumbrances upon real titles work a lasting and substantial injury to a country? Does any one imagine that the home-builder can be induced to surround himself with such rank and heartless tyranny? Such contracts have resulted and are resulting in checking the tide of immigration into Washington Territory, and are, of themselves, entirely sufficient to justify the restoration of this unearned grant to the public domain.

In accomplishing this great act of justice the right of every *bona fide* purchaser should be amply guarded. Relying upon the erroneous representations of Government officials that this company had earned its grant, thousands of settlers have purchased their homes from the company, and a failure to protect such purchasers would result in widespread distress. While I insist that this company shall be made to restore to the public domain every acre of land not earned by a rigid and literal compliance with the terms of the grant, I insist at the same time that every settler who has been drawn into a controversy over the title to his home by reason of this grant shall not have his burdens increased by a failure on the part of Congress to offset by legislation the misleading rulings of Republican officials. I would go even further in the direction indicated than does the bill under consideration.

I would confirm to every purchaser, from the company, who is residing thereon, the title to every acre of his purchase. I would be in favor of this course, and I would supplement it with such legislation as would enable the United States to recover by suit from the company the value of the lands, the title to which is thus confirmed. The Committee on Public Lands have, however, submitted to the House in the pending measure a proposition to confirm *bona fide* purchasers from the company in their titles to the extent of 320 acres without reference to actual residence thereon. While this does not go so far as I would be willing to go, it will tend largely to avoid the bad effects which will follow a failure to include some such legislation in the bill.

Mr. Speaker, the day of unquestioning acquiescence in railroad domination, in this country, has passed away. The day when the American citizen was forced to humbly sue at the feet of the railroad magnate for permission to enjoy the natural rights of man has given place to a kindlier day, and a mighty protest is taking its place in history as the outgrowth of the gross wrongs committed upon the sovereignty of the American people.

"The multitude is patient to a certain point," and the American people, after years of lethargy and indifference have reached that point, and refuse longer to enact the rôle of pack-horses for the corporations of this country.

Mr. HENLEY. I think it would be satisfactory for gentlemen all around if some understanding could be reached as to when the previous question shall be called. Gentlemen on the other side have said, un-

der the intimation that the previous question would be called at a certain hour, that they would not have time to express their views upon this subject; and I want to get from them an expression of opinion as to what may be agreeable in that respect.

Mr. STRAIT. I think that debate had better be allowed to run.

Mr. VAN EATON. I ask the gentleman from California to allow the general debate to run along until 5 o'clock at all events.

Mr. REED, of Maine. And then we will be better able to determine when the previous question may be ordered.

Mr. HENLEY. I will make this proposition to the other side that the previous question will not be called to-day, but that general debate shall be continued up to the ordinary hour of recess, and to-morrow as soon as this comes up I will call the previous question upon it.

Mr. REAGAN. I must object to this debate going over.

Mr. McMILLIN. I suggest that the debate be continued up to the hour of adjournment, with the understanding that the previous question is to be called at that time.

Mr. HENLEY. I am in favor of that.

Mr. REED, of Maine. Let it go on and see how it comes out.

Mr. REAGAN. I give notice that if the debate is not closed to-day I will antagonize the bill with the interstate-commerce bill.

Mr. REED, of Maine. This is a matter which involves a large question and very important interests. We have spent many a day this session in discussing affairs which involved less than \$100, and it is now proposed that we shall dispose absolutely at 5 o'clock this afternoon of a question which involves thirty million acres of land and very important and serious principles of law, which need to be discussed. There are several gentlemen who desire to make some observations with regard to this. There is no disposition to prevent action on this bill after due and proper discussion. It seems to me the discussion might as well run on this afternoon, because it is in the power of the gentleman from California representing the Committee on Public Lands to call for the previous question at any time when he gets the floor and sees fit to do so and he will be recognized by the Chair for that purpose. If he chooses to call the previous question at 1 o'clock to-morrow and the House sustains him, that will be an end of the matter. It seems to me that is fair and just and that we should go on now without a request for unanimous consent to close up the debate; because from the very nature of a debate of this kind there may be some questions come up that it will be desirable to discuss, and we may find ourselves confronted with the unanimous decision of the House, so that those questions can not be discussed in the presence of the House.

Mr. HENLEY. I made the proposition I did in order to learn if the disposition on the other side of the House was in good faith to come to a vote on this bill within a reasonable time. The response of the gentleman from Maine is not satisfactory, and the House now understands he is unwilling to enter into an agreement to that effect. I therefore now move that general debate close at 15 minutes to 5 o'clock.

Mr. REED, of Maine. The gentleman from California has not the floor for the purpose of making that motion.

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. PAYSON] has the floor.

Mr. REED, of Maine. I call for the regular order.

The SPEAKER *pro tempore*. The regular order is to proceed with the debate. The gentleman from Illinois has the floor.

Mr. PAYSON. Without prejudice to my right to the floor, I am willing to yield it to the gentleman from California to make the motion he has indicated.

Mr. REED, of Maine. I object to that.

Mr. PAYSON. I am anxious an amicable adjustment should be arrived at.

Mr. HENLEY. I understand the gentleman from Illinois [Mr. PAYSON] has yielded to me.

Mr. PAYSON. Before doing so I propose to occupy a minute in my own right. As I have said, I am desirous there should be some amicable arrangement with reference to closing the debate. On the other hand I appreciate the desire of several gentlemen opposed to the bill to be heard in reference to it. I shall be content when the proper time comes to occupy the little fragments of time allotted to me by gentlemen who have spoken at length. Without interfering with the right of anybody else, I have no objection, if it is the sense of the House, without prejudice to my right to occupy the floor, to yield to my colleague on the committee to make the motion he has stated.

Mr. REED, of Maine. I object. If the gentleman yields the floor that ends it.

Mr. HENLEY. The gentleman can yield the floor for a specific purpose, and has yielded to me to make the motion.

Mr. PAYSON. Without prejudice to my right I yield to the gentleman.

Mr. HISCOCK. I would like to inquire of the gentleman from California whether he really desires to pass the bill?

Mr. HENLEY. The gentleman knows we desire to pass the bill.

Mr. HISCOCK. Then I suggest you allow a reasonable amount of debate in order to facilitate that object.

Mr. HENLEY. What is a reasonable amount of debate?

Mr. HISCOCK. The gentleman from Illinois has suggested it; and

it has been suggested this bill might have been brought in a long time ago. It is brought here in the late hours of the session.

Mr. COBB. It was brought in on an early day of the session.

Mr. REAGAN. It is obviously the object of gentlemen on the other side to delay action on this bill.

Mr. HENLEY. The gentleman from Illinois [Mr. PAYSON] yields the floor to me that I may make the motion indicated.

Mr. REED, of Maine. I object to any such arrangement.

Mr. McMILLIN. The gentleman from Illinois can yield the floor.

The SPEAKER resumed the chair.

Mr. PAYSON. I rise to a parliamentary inquiry. Is the Speaker advised as to the parliamentary condition of affairs at this time?

The SPEAKER. The Chair understands that the gentleman from California [Mr. HENLEY] yielded a portion of his time to the gentleman from Illinois [Mr. PAYSON], and also that the gentleman from Washington Territory [Mr. VOORHEES] yielded some time to the gentleman from Illinois.

Mr. PAYSON. The gentleman from Washington Territory [Mr. VOORHEES] yielded me fifteen minutes, and the gentleman from California [Mr. HENLEY] twenty minutes.

The SPEAKER. And the Chair understands that the gentleman from Illinois [Mr. PAYSON] has been recognized as entitled to the floor.

Mr. PAYSON. Yes. Now, Mr. Speaker, my parliamentary inquiry is this: Have I a right, without prejudice to my own right to resume the floor, to yield to the gentleman from California [Mr. HENLEY] in order that he may make a motion for the purpose of limiting debate?

Mr. REED, of Maine. In the face of an objection.

Mr. PAYSON. Yes.

The SPEAKER. In the face of an objection, the Chair thinks not. The Chair thinks the gentleman from Illinois could not yield to the gentlemen from California to make a motion so as to cut off other gentlemen who may hereafter obtain a right to the floor. In other words, if the gentleman from Illinois [Mr. PAYSON] yielded to the gentleman from California [Mr. HENLEY] to move the previous question, and if the previous question were ordered by the House, the effect would be to stop the debate and take the gentleman from Illinois off the floor.

Mr. McMILLIN. But the gentleman from California [Mr. HENLEY] did not move the previous question. He simply moved to limit the debate so as to have it terminate at 15 minutes past 5 o'clock.

Mr. REED, of Maine. That motion can not be made.

The SPEAKER. The motion to limit debate in the House can not be made. This bill is not being considered in the House as in Committee of the Whole; it is being considered by the House as an ordinary legislative body, and it has been often decided that the only way to limit debate in the House is by the previous question or by unanimous consent.

Mr. OATES. Mr. Speaker—

Mr. PAYSON. I do not yield the floor. Now, Mr. Speaker, as I represent the same side of this question that has been advocated by the gentleman from Washington Territory [Mr. VOORHEES], and as the gentleman from Minnesota [Mr. STRAIT] desires to be heard in opposition to the bill, I will yield to him, reserving my time.

Mr. STRAIT. Mr. Speaker, I desire to offer an amendment to the bill so that it may be pending.

The SPEAKER. The amendment will be read.

The Clerk read as follows:

Amend by striking out all after the enacting clause and inserting the following: That in consequence of the failure of the Northern Pacific Railroad Company to construct its road from Walla Walla junction to Portland, in the State of Oregon, a distance of 214 miles, over which line the said company have running connections with the Oregon Railway and Navigation Company, and have abandoned the building of their own road between said points, the United States resume the title to the lands granted to said company coterminous with such unfinished part of said road, and so much of the act making the grant of lands to said Northern Pacific Railroad Company as applies between Walla Walla and Portland is hereby repealed and the said land is resumed as a part of the public domain.

The SPEAKER. The Chair understands the gentleman to offer this as a substitute for the amendment proposed by the committee.

Mr. STRAIT. Yes, sir.

The SPEAKER. The gentleman will proceed.

Mr. ANDERSON, of Kansas. Mr. Speaker, I rise to a parliamentary inquiry.

The SPEAKER. The gentleman from Minnesota [Mr. STRAIT] has the floor.

Mr. ANDERSON, of Kansas. I wish to make a parliamentary inquiry.

The SPEAKER. The gentleman from Minnesota [Mr. STRAIT] has the floor unless he yields it.

Mr. ANDERSON, of Kansas. Well, Mr. Speaker, I make a point of order.

The SPEAKER. The gentleman will state it.

Mr. ANDERSON, of Kansas. My point is that as the House is now engaged in general debate and has not reached the stage of the proceedings at which amendments can be offered, this amendment is not in order.

The SPEAKER. This is not a case in which the House is engaged

in general debate in the ordinary sense of that term. General debate takes place in Committee of the Whole on the state of the Union. This is simply the consideration of a bill in the House, and any gentleman who obtains the floor in his own right has a right to offer an amendment at this stage of the bill, to be voted upon after the debate closes.

Mr. ANDERSON, of Kansas. I have implicit confidence in the Chair always.

Mr. STRAIT. Now, Mr. Speaker, I yield to my colleague [Mr. GILFILLAN].

Mr. GILFILLAN. Mr. Speaker, I rise to oppose the bill reported by the Committee on Public Lands as a substitute for the Senate bill. No one can be more profoundly impressed than myself with the fact that in the brief time which seems to be allotted to any one member here to discuss the important issues involved in this question it is impossible for any gentleman to begin to do anything like justice to those issues or to himself.

With all due deference to the gentlemen who have preceded me on this question, it seems to me, Mr. Speaker, that we are to try the issues here not by the use of declamation, which has merely a tendency to irritate passion and prejudice against railway companies and other corporations; but that we are to come down to the record, examine the issues as they are, and try them upon the facts and the law in the case.

It is idle also to try to arraign this or that political party as responsible for the present condition of things, for I would simply remind our friends on the other side of the Chamber that this doctrine of land grants was inaugurated by the great prophet of Democracy in these modern days, Stephen A. Douglas, and almost every statesman of that persuasion down to the late lamented Vice-President, whose memory is still fresh in the minds of us all, was an advocate of grants of this kind as conducive to the public interest and promotive of the public good. And the party on this side of the House can "throw no stones," for they themselves in this respect "live in glass houses." The Republican party, and the better part of it, has been devoted during all these years to the granting of just such aids as that involved in this grant to the Northern Pacific Railway Company, and it is through just such a policy as this that our country has made the rapid and unprecedented strides in growth and development which the last quarter of a century has witnessed.

This is no longer a party issue, for both parties have receded from this doctrine upon the ground that public necessity no longer exists for aid of this kind. For more than a decade both parties have abandoned the policy as well as the practice of granting lands to States or railroads to aid enterprises of this character.

Now let us go back to the contract rights of the parties in controversy; for I apprehend that it is simply a question of contract rights and nothing else. There is no question here but that this railway company has discharged and is continuing to discharge its duty. This is not a proceeding to impeach its charter; it is simply a question of forfeiture of lands. Both political parties and all parties are agreed upon forfeiting such lands and such only as we have the right to forfeit—the right in law and in good morals. There is no party in this land to-day that is pledged to any doctrine which involves dishonesty or want of integrity or moral turpitude.

Now I undertake to say right here that when we come to view this issue in the light of the facts and the law there is a great deal of moral turpitude in the form of the proposition which now comes before this House. I undertake to say we have neither the legal right nor the moral right to do what is proposed to be done by the substitute presented here by the Committee on Public Lands.

This whole matter has its origin in the act of July 2, 1864 (13 Statutes at Large, 365). The first section of that act creates this company. The company thus created and existing under this act of Congress has ever since been under the control of Congress. The act is subject to amendment; and for every dereliction of duty, for every violation of any provision of this act, for every neglect of a condition precedent or subsequent, this company has during every moment of its lifetime been amenable to Congress. Congress has had the power at any time to call it to account; and if this company was proving inefficient, or dishonest, or not faithful to the trust which was committed to it, it has been within the legal power of Congress at any time to resume all the rights which were granted by the original act and to control this whole property.

Section 1 of this act enumerates a long list of corporators, comprising some of the best known public men in the country, gleaned from some twenty-seven or twenty-eight States of this Union, thus seeking to make this enterprise a matter of national interest, represented by men from all the different States, selected for their well-known ability, integrity, and trustworthiness. It creates them a body-corporate by the name of the Northern Pacific Railway Company. This section gives them the right not only to be a corporation, but to construct a railway planned and mapped out in this act from the great lakes of the continent to the Pacific Ocean by the nearest and most practicable railroad route.

Section 2 gives the right of way for the requisite width of 200 feet through all the public lands of the United States; and inasmuch as for

a long distance the road was to traverse the new country, a wilderness inhabited only by hostile savages, the Government in the closing paragraph of section 2 assumed the following obligation :

The United States shall extinguish as rapidly as may be consistent with public policy and the welfare of the said Indians the Indian titles to all lands falling under the operation of this act, and acquired in the donation to the road named in this bill.

Section 3 is devoted to the granting of the land.

Section 4 provides for the construction of the road in sections of 25 miles each; for its inspection under the control and authority of the executive department of the Government, and for its acceptance when found to have been completed in accordance with the conditions of the act.

Section 5 contains the provisions and specifications by which the company was to be controlled as to the manner of the construction and the kind of road.

Section 3 also specifies the considerations for which the Government enters upon this enterprise, "to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores over the route of said line of railway."

These purposes are further stated in section 11, as follows:

That said Northern Pacific Railroad, or any part thereof, shall be a post-route and a military road, subject to the use of the United States for postal, military, naval, and all other Government service, and also subject to such regulations as Congress may impose restricting the charges for such Government transportation.

The objects of the act are further recited in the last section, where an unlimited right to repeal, amend, or modify the act is reserved, in order to secure the objects sought to be accomplished by the act.

Sections 8 and 9 prescribe the conditions upon which the grant is made and the conditions upon which the lands and other rights granted shall be held.

The company duly organized and accepted the grant. The time within which this road was to be completed was by the original act limited to July 4, 1876; by subsequent legislation this time was extended to July 4, 1879.

Now, what has been done by the railway company under this act in execution of these provisions on their part? The company not being able to raise the necessary funds to prosecute the work, Congress, in 1870, by a joint resolution, to be found in the sixteenth volume of the Statutes at Large, page 378, authorized the company to issue bonds and to mortgage its property to raise means to prosecute the enterprise. The work was begun and carried forward with such progress that up to and including the year 1874 529 miles of road were constructed and accepted in pursuance of the act. This much, then, was indisputably done within the time of the original limit as extended; and this embraces the only portion of the road in relation to which the Public Lands Committee do not propose a forfeiture of the granted lands. They concede that the company has earned and is entitled to the lands pertaining to this portion of the road.

The financial disaster of 1873 put a stop to the work and the company was unable to resume operations during the continuance of the depression, which prevailed throughout the country for more than five years. In the mean time the bondholders had become the owners of the property and of the enterprise with all the grants, rights, privileges, and franchises of the company, including the right to be a corporation by means of the foreclosure of the mortgage. They reorganized the company, and in the fall of 1878 the work was resumed, and from that time the construction was carried on unremittingly, so that the following miles of road have been completed, examined, and accepted by the President of the United States under the provisions of section 4 in the following years—that is to say: In 1880, 150 miles; in 1881, 325 miles; in 1882, 404 miles; in 1883, 411 miles; in 1884, 112 miles; in 1885, 88 miles; in 1886, 40 miles; or a total of nearly 2,100 miles.

The work has been accomplished by means of money borrowed on the security of the land grant as authorized and sanctioned by the said acts of Congress.

The purpose of the pending bill as reported by the Public Lands Committee is to declare a forfeiture of the land grant pertaining to so much of the road as was not completed strictly within time, or all of such grant pertaining to all that part of the road west of the Missouri River. The sole ground for such action is that the whole road was not completed by July 4, 1879.

The first and important question now is whether Congress can so declare a forfeiture of these lands, and that depends upon the proper construction of the granting act. As preliminary to this main question there naturally arise two other questions.

First, Did Congress reserve to itself the right to declare a forfeiture for breach of condition-subsequent, or does such rights follow as the legal effect of such breach? And second, if yea, has such right been waived or lost by the United States?

The grant embraced in this act is manifestly one of the class which by repeated decisions of the Supreme Court has been held to be a grant *in presenti* upon condition-subsequent, and the sections of the act directly bearing upon the grant of lands are sections 3, 5, 8, and 9, which are as follows:

Sec. 3. *And be it further enacted*, That there be and is hereby granted to the

Northern Pacific Railroad Company, its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line to the Pacific coast, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores, over the route of said line of railway, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line, as said company may adopt, through the Territories of the United States and ten alternate sections of land per mile, on each side of said railroad, whenever it passes through any State, and whenever, on the line thereof the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from pre-emption or other claims or rights at the time the line of said road is definitely fixed and the plat thereof filed in the office of the Commissioner of the General Land Office; and whenever prior to said term, any of said sections or parts of sections, shall have been granted, sold, reserved, occupied by homestead settlers or pre-empted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof, under the direction of the Secretary of the Interior, in alternate sections and designated by odd numbers, not more than 10 miles beyond the limits of said alternate sections.

Sec. 5. That the said Northern Pacific Railroad shall be constructed in a substantial and workmanlike manner, with all the necessary draws, culverts, bridges, viaducts, crossings, turnouts, stations, and watering-places and all other appurtenances, including furniture and rolling stock equal in all respects to railroads of the first class, when prepared for business, with rails of the best quality, manufactured from American iron. And a uniform gauge shall be established throughout the entire length of the road. And there shall be constructed a telegraph line of the most substantial and approved description to be operated along the entire line: *Provided*, That said company shall not charge the Government higher rates than they do individuals for like transportation and telegraph service. And it shall be the duty of the Northern Pacific Railroad Company to permit any other railroad, which shall be authorized to be built by the United States or by the Legislature of any Territory or State in which the same may be situated, to form running connections with it, on fair and equitable terms.

Sec. 8. *And be it further enacted*, That each and every grant, right, and privilege herein are so made and given to and accepted by said Northern Pacific Railroad Company, upon and subject to the following conditions, namely: That the said company shall commence the work on said road within two years from the approval of this act by the President, and shall complete not less than 50 miles per year after the second year, and shall construct, equip, furnish, and complete the whole road by the 4th day of July, A. D. 1868.

Sec. 9. *And be it further enacted*, That the United States make the several conditioned grants herein and that the said Northern Pacific Railroad Company accept the same, upon the further condition, that if the company make any breach of the conditions hereof and allow the same to continue for upward of one year, then in such case, at any time hereafter, the United States by its Congress, may do any and all acts and things, which may be needful and necessary to insure a speedy completion of said road.

It will be observed that there is no provision to be found anywhere in these sections nor in the act expressly providing for a forfeiture of the lands or of anything in case of a breach of any condition. But say the Public Lands Committee in their majority report accompanying H. R. 147, which is the same as the pending substitute, "that section 8 of the act declares a condition-subsequent, namely, that the road shall be completed within a certain time, upon breach of which the grantor may declare a forfeiture."

Now, it is unnecessary here, and we shall not attempt, to controvert the proposition that Congress has the right and power to declare a forfeiture of granted lands for breach of condition-subsequent in a proper case. We might not care to contend against the abstract proposition enunciated by the committee as above stated. But the committee insist that there is nothing elsewhere in the act repugnant to their construction of section 8 or that qualifies it in any way, and so they segregate that section from the remainder of the act and construe it by itself, and as a result arrive at what seems to us a mischievous and misleading misconstruction of the act.

The granting act in this case is in the nature of public law and it must be construed as a whole to ascertain the legislative intent, and force and effect must be given to the whole act; it is also in the nature of a grant and no rule is better settled than that all the stipulations in a deed must be considered in construing it, and that, if possible, full force and effect be given to all its parts; it is also in the nature of a contract between the parties, and the same rules of construction must apply. Those principles are elementary and need not be further argued. It is also a principle of familiar and elementary law that when a statute creating a right provides a specific remedy for non-compliance with its provisions such remedy is exclusive of all other and different remedies, and only the remedy prescribed can be pursued.

It is familiar law also that the court must construe the contract, and determine its legal effect, when the contract is in writing and its terms are unambiguous; but it is to be construed in the light of surrounding circumstances, and the situation of the parties at the time of entering into it, and parol proof even if necessary of these facts is admissible both for the purpose of raising and explaining a latent ambiguity (1 Chitty on Contracts, 11 Am. ed., 149; 20 Minn. at page 297).

Now, one of the facts and circumstances surrounding the inception of this contract, and it is a very significant one and may very properly be here noted, is that up to the date of the passage of this act all grants of public lands to railroad companies or to States to aid in the construction of railroads were by the terms of the act not only made subject to certain conditions, but also made forfeitable to the United States for failure to comply with such conditions. This fact should be distinctly borne in mind as we come to consider the provisions of this act, because we can not assume that so important a provision could be inadvertently omitted from the terms of a grant styled by the committee to have been "in extent the most munificent of all the princely donations in the era of liberality to aid in the construction of railroads," but if omitted it must have been intentionally omitted.

By reference to section 9 of this act we find that the usual forfeiture clause is transformed into another and very different provision, and that instead of providing for a forfeiture of the lands it is provided "that if the company make any breach of the conditions hereof" (that is of the whole act) "and allow the same to continue for upward of one year, then in such case at any time hereafter the United States by its Congress may do any and all acts and things which may be needful and necessary to insure a speedy completion of said road."

That is to say, all the grants, not only of lands but of the franchise, rights, and privileges, were so made, given, and accepted upon this express condition. We can not and must not assume that so important a feature of this act was incorporated in it thoughtlessly, being such a wide departure from all previous grants, for not only this fact but every word and clause of the section seems to lead to the inevitable conclusion that such phraseology was used with the utmost care, caution, and intentment. And having provided the remedy and an adequate one for the protection of all public rights and interests in case of a breach, the presumption of law is that it is exclusive of all other remedies.

This theory that the remedy prescribed in section 9 was exclusive and to be in lieu of and to take the place of the usual forfeiture clause is not only supported by the natural import of the language used but is in harmony with the leading ideas and scope of the whole granting act.

The leading ideas of the act were to insure the construction of a railway and telegraph line from the great lakes of the continent to the Pacific Ocean by the shortest route. It was to be aided and encouraged as a great national enterprise for national purposes, for national protection and service, including the transportation of the mails, troops, munitions of war, and public stores, and thus to provide for the common defense of the nation, the suppression of Indian wars and disturbances, the development and settlement of that vast portion of the national domain, and the general welfare of the people of the United States.

The prime desire and object was to accomplish this great enterprise and to avoid a possible failure of it. And so the act first creates a company that should in the first instance be clothed with the necessary powers, rights, and duties, and which should undertake the construction of this great national highway. The contingency sought to be guarded against was a possible failure by that company to complete the work, and this was to be met and overcome not by a forfeiture of the lands and an abandonment of the enterprise, but by the interposition by the United States, through its Congress, and a resumption of the situation in case of necessity; not only a resumption of the lands but of the franchise as well and of such portion of the road as may have been constructed, and the doing of any and all acts and things which might be needful and necessary to insure the speedy completion of said road. Those were the leading ideas of the scheme as declared and provided for by the very terms of the act, and the idea of a forfeiture of the land, leaving the company with the mere skeleton of a franchise, without means or credit, entailing an inevitable abandonment of the enterprise, but merely standing in the way of other agencies, would be wholly repugnant to the declared objects sought to be accomplished.

We therefore insist that it was manifestly the fixed purpose of Congress to adopt a different theory in the enactment of this law from that before acted upon, to ingraft upon it a new feature with respect to the building of this road; instead of a forfeiture to provide other means if this company should fail; to resume the possession and control of all it had granted, and to prosecute the work through new instrumentalities, or a new company, and to push it forward to a speedy conclusion.

Hence we say, with reference to section 9, that it clearly appears from the language there used, and the theory is corroborated by the other provisions of the act, that it was the intention of Congress to provide against the legal effect of section 8, or what its legal effect might have been standing alone, by providing in the very next section another and different result that should follow in case of a breach of the conditions of the act by the company, and the continuance of such breach for one year. This section in effect provides that the other result that is a forfeiture shall not follow. By prescribing this one result that should follow the breach of a condition, Congress excluded the idea of any other result or effect following upon a breach of such condition.

Now, the Public Lands Committee, in their majority report, at page 5, contend that this remedy provided in section 9 has no relation to the conditions in section 8, but relates to some other condition than that mentioned in section 8. They say:

This section evidently relates to some other condition than that mentioned in section 8.

These other conditions or requirements are found in section 5, which provides that six separate and distinct things should be done by the company, namely: First, that the road should be constructed in a substantial and workmanlike manner, equal in all respects to first-class railroad; second, that it should be made of rails of the best quality, manufactured from American iron; third, that a uniform gauge should be established throughout the entire line; fourth, that the company should construct a telegraph line of the most approved and substantial description; fifth, that it should not charge the Government higher rates than individuals; and, sixth, that it should permit other railroads to make running connections on fair and reasonable terms. These are the other and further conditions mentioned by section 9, in default of any of which, continuing for a year, Congress should have the right to "do any and all acts and things" to secure the "speedy completion of the said road," as contemplated and provided.

Now in answer to this argument we insist that these are not the fur-

ther conditions referred to in section 9. Section 9 was never intended as the guarantee of compliance with those conditions. Compliance with the first four of these enumerated conditions is infinitely better secured by the provisions of section 4, which requires that all of these conditions must be performed before the road is accepted in sections of 25 miles each, and before the lands accruing thereto, that is to each of such sections of road, can or will be confirmed to the company by the issuance of a patent therefor. And security against a violation of the last two conditions is abundantly provided for in section 20 in the reserved right to alter, amend, or repeal the act. We say again the direct and only object to be accomplished by the conditions of sections 8 and 9 was as stated therein, to secure a speedy completion of the said road.

There are other facts and circumstances surrounding the inception of this grant which may perhaps with propriety be considered, as throwing light upon this question and leading to correct conclusions as to just what Congress did intend and what was its real object and intention in the enactment of this charter and the bestowing of this grant of lands. Without impugning the motives of any one, I will say that it is difficult to read the report of the committee reporting this substitute without feeling that the natural effect of some of the language is rather to prejudice and bias the judgment of the reader rather than to throw light upon the question as to what was intended by the act of Congress. They style this grant:

An isolated example of unparalleled generosity on the part of the United States in giving away millions of acres of the public domain without any provision for resuming its title even upon absolute failure of the company to fulfill its part of the contract.

Again they say:

The grant itself was in extent the most munificent of all the princely donations made in the era of liberality to aid in the construction of railroads—

And again, "this munificent grant," "this princely gift," "this munificent donation," all quoted from the report of the committee, are simply catch-words, the effect of which is to excite prejudice against the railroad corporation and to bias the mind in favor of a proposition which it seems to me is wholly indefensible. Instead of looking at the country as it is to-day, with its lands enhanced in value by the construction and operation of this railroad which now spans the continent from the lakes to the western ocean, let us go back a little and look at the state of things in this part of the country now traversed by this road as seen at the time by those who enacted this law. What they said and what may now be gleaned from the debates involving the consideration of the original bill will best disclose what they understood and what they intended and what was the legislative intent in the framing and enactment of this law. By a reference to the *Globe* of April 18, 1864, volume 51, page 1698, we find that the House of Representatives, on the motion of Mr. Stevens, proceeded to the consideration of the bill granting lands to this road.

Mr. Stevens said:

I do not know that I desire to say anything upon this bill unless there shall be some objection to it. I hope there will be none.

Mr. Wilson said:

I do object to the passage of this bill, for it proposes to grant to this company over 46,000,000 acres of the public lands, &c.

Mr. HOLMAN said:

I believe, Mr. Speaker, that this is the largest grant of public lands ever proposed to be made and will absorb a very large proportion of the remainder of the national domain. It will operate to that extent in defeating the operation of the homestead law.

Mr. Stevens said:

In answer to the gentleman from Indiana I will say that in our grants to the Union Pacific Railroad we gave \$16,000 a mile in bonds, \$48,000 across the mountains and ten sections of land per mile. And there the United States Government was to pay for all transportation the same as other individuals. The committee has refused in this bill to grant the company any subsidies except in public lands in that unbroken wilderness.

As to these lands, the committee was willing to give to the company almost any amount that it thought that it could make use of, and because the Government has already devoted the land not for sale, but for homesteads of such individuals as chose to settle on it. The committee supposed that the true way to provide for homesteads there was to have a railway constructed; and hence it proposed to give this increased quantity of the public lands, while it refused to report any subsidies. I submit to the gentleman from Indiana [Mr. HOLMAN] whether he believes that the value of the lands here given approaches at all near the amount of subsidies granted to the other company.

I am not discussing the subject of the Union Pacific Railroad now. I am in favor of it. Indeed I am in favor of all these roads; and I hardly expected that when the company asks a grant of lands that are now worthless there should be any objection at all to it.

Mr. SLOAN. I am certainly in favor of the purpose of this bill, that is, the construction of a Northern Pacific Railroad. I believe that the shortest route for reaching the Pacific is by the northern route, and if I had any assurance that the grant which is proposed to be made by this bill would result in the construction of the road I would certainly be very earnestly and zealously in favor of the bill.

But, sir, I see by the bill that the grant of the public lands which it is proposed to make, and which it is estimated will reach not less than 46,000,000 acres of land, is to be given to a corporation chartered by the State of Maine, a State certainly the farthest removed of any State in the Union from the scene of the operations of the proposed project.

I know nothing in reference to the company which is named in the bill, nothing in relation to its facilities or ability to accomplish this great work. The special committee having this matter in charge have proposed to commit it to it. If I were satisfied that it is composed of such men as will insure the execution of the work, they would not have a more earnest supporter upon this floor

than myself. But it must be recollected that this is an enormous grant of land to be donated to a single company, and that if they should fail to do anything under it they may stand in the way of the organization of another company for the completion of this important national work.

I confess that I have not had an opportunity of examining the details of the bill so as to understand all the guards which the committee have thrown around the grant. But, sir, I desire to say that without understanding what the precedents have been in this respect, it does seem to me that in a work of such national importance as the construction of a railroad between the Atlantic and Pacific States a corporation should be organized under this bill by the Congress of the United States, and this within such limits and under such liabilities as may be deemed proper, instead of leaving it to a company organized in one of the States.

Mr. Sweat: "I hope to live long enough, without looking forward to a very long life, to see mining and agricultural communities growing up in that interior, which shall constitute an element of peace and concord among the States of this Union," were words spoken on this floor in May, 1860, upon the very question now under consideration, by the gentleman whose labors in behalf of the project of developing that vast extent of territory between the Mississippi River and the Pacific Ocean entitle him to the high consideration and gratitude of the American people. He did live long enough to see the initiation of a part of his plan in the charter granted for the Union Pacific or Central road, and had he lived until this time he would have rejoiced still more in this other fact now before us of the unanimous report of your committee in aid of his favorite northern route, and which, I trust, is to receive the friendly support of this Congress. His mind, remarkable for its quickness and vigor of action, comprehended from the first, not only the importance in a commercial view of opening a communication to the Pacific Ocean by railway but upon the broader ground of developing the untold resources and wealth of the vast, unsettled, and almost unknown territory within our borders, and as a means of providing for the military defenses of the great Northwest of this Republic.

Mr. Speaker, the question of railroads to the Pacific is not another chimera. It has been answered. They are not only practicable but they are indispensable as a means of developing and protecting that portion of our country destined at no distant day to equal if not transcend in importance any other equal extent of our domain. Thanks to such men as Lewis and Clark and Whitney in earlier days, and Stevens, Mullan, McClellan, Lander, Fiske, and others, more recently, public interest is now centered upon this grand movement, scarcely second in importance to the establishment of peace within our borders, for without the development of this portion of our country no peace can be permanently assured and maintained.

#### REFERRING TO LANDS GRANTED.

This land is now virtually useless to the Government, and so far as surveyed is open to occupation and settlement at mere nominal prices. The land which would be left after this appropriation to the road will be increased a hundred-fold after the road is built; and to meet any possible suspicion that this is to be used as a mere speculative scheme for the purpose of getting hold of the public lands I beg you to bear in mind that by the language of the bill expressly prepared for the purpose not one single acre of land can ever vest in this corporation except upon the terms of actually constructing and having ready for service the road in sections of at least 25 miles each.

Page 1701:

Is this road important? Is it worth the attention of this Congress? It is not credible that at this late day any argument can be needed to show either the importance or the necessity of this northern connection with the Pacific. What is the extent of territory proposed to be opened by the various routes between the Missouri River and the Pacific? More than 1,000,000 square miles, and extending from the thirty-second to the forty-ninth degrees of latitude, large enough for thirty States like Ohio. In the absence of all knowledge of the resources of this country the simple statement of so vast an area of unimproved land would of itself preclude the idea that it could be too unimportant to attract public attention and interest, unless one adopts the theory that the Almighty created so large a portion of the western world for naught. Happily we are not obliged to rest on the blind faith that nothing is created in vain to be satisfied that this territory was made for the abode of man; and not only so, but that it is full of wealth and capabilities, inviting the enterprise of the world. All those who have surveyed this route concur in saying that the land is cultivable nearly the whole distance.

May 16, 1864, Globe, volume 52, page 2291:

Mr. Sloan: In my judgment no better disposition could be made of the lands along the proposed line than this. A northern Pacific railroad will undoubtedly be built, and I hope if the grant proposed in the bill is made it will accomplish that important object.

If this road is not built within our own territory, it will be built within the British possessions. There are already settlements in the lower and western portion of British Columbia which are rapidly increasing in population and commercial importance, and they are largely interested in opening up a communication with the seaboard. The English never neglect their own interests. If this bill will be the means of constructing a road on our own soil, south of the British possessions, it is certainly a measure which every gentleman in the House ought to vote for.

Mr. Sweat (page 2292), May 16:

I had occasion, Mr. Speaker, to make some remarks upon this subject two or three weeks ago, and I will say in the outset that I will occupy the attention of the House but a few minutes. I wish simply to reply to the remarks of the gentleman from Ohio, Mr. Spaulding, who has just taken his seat. He objects to giving away so much of our public domain. I admit that the amount which is taken under this bill is large, some 40,000,000 acres; but let me ask that gentleman and all other gentlemen what that land is worth unless it is improved? And how will you improve it unless you open avenues to it? Why, these public lands of ours, let me say to the gentleman from Ohio, he knows very well are now open to settlement at a mere nominal price, and what are they worth?

Mr. Brown, of Wisconsin (page 2293):

I wish to say, as representing a Western State that is mentioned in this bill, that we care little by what State the charter was given to this company. One thing is very certain, that either a railroad is to be built to the Pacific by a northern route over American soil or over British soil. If it is built over American soil it is necessarily for all hostile purposes an American road and within our control. If built on British soil, then it comes in collision with our interests on the Pacific; and I insist that whenever a practical proposition is submitted to Congress by which it can aid in the construction of a road to the Pacific that is to be over our national territory, within our own power, it ought to do so.

So far as the mere question of donating land is concerned I will say that as a general principle I have been entirely opposed to railroad grants. But there are exceptions to the rule. The rule would have applied to various grants made at this session. The exception is applicable to this very road by which a great national object is to be attained.

Mr. Morrill: I desire to say a few words in regard to the gentleman's position. If this road was built it would be an American road in time of war provided we have a sufficient force to protect it. If it is built over our own soil and

the British have sufficient force to seize it, then it will be a British road to all intents and purposes.

Mr. Brown, of Wisconsin: I will inform the gentleman that the States of Wisconsin and Minnesota, over whose soil this road is to pass, have furnished very good evidence during this war that they are able to maintain and hold in behalf of the United States any road that they may pass through their territory; and I think the fear of the gentleman in that respect is entirely unfounded.

Mr. Donnelly said (May 16, 1864, Globe, volume 52, page 2294):

If this grant is made, a region of country reaching from the Mississippi Valley to the Pacific Ocean, with an average width of a thousand miles, will be opened up to settlement which otherwise would probably remain an unbroken wilderness for very many years to come.

It is not to be expected that any large agricultural population can ever be brought to settle in a country having no ready outlet to the market of the world. This railroad is a necessity to that great region of country.

But it may be said that that outlet will be found in the Central Pacific road. I answer that it is impracticable for this important and immense region of country ever to be drained by a series of transverse railroads reaching to a central line nearly a thousand miles distant. In fact this country never can be opened unless Congress, following the course it has always heretofore pursued, shall make a liberal grant of public lands to aid in the construction of a railroad running from the great valley to the sea, through its midst, and which will develop its immense resources. The land itself, which this bill proposes to give away, is worth nothing to the Government in its present condition, and will remain of no value unless communication is opened between the Mississippi Valley and the Pacific Ocean. \* \* \* You can not deny to this great region of country an outlet; and it is simply a question whether you will make it a complete and perfect outlet as you now can, or trust, with the gradual development of the country, to add link after link to a crude, imperfect, and gradually developed system as State after State is built up in that great interior region.

Another question occurs. It may be said—and there is upon the minds of many such an impression—that this wide interior region of country is a vast wilderness, unfitted for settlement and incapable of supporting any considerable body of population. This is very far, indeed, from being the case. I have never been more surprised by the perusal of any work than I was in reading the report of Capt. John Mullan in reference to the construction of a wagon-road from Fort Benton westward. It appears from that official document that on the line over which this road would pass the road would scarcely ever be beyond the reach of timber, and rarely, if ever, beyond the reach of fertile and cultivable soil.

I state to this House a fact, referred to more than once upon this floor, that there is a wide difference between the country over which the Central Pacific road will pass and the region which this road would develop. It is the popular belief that all that interior region is a sterile, treeless wilderness; and yet there is at one point on the route of this road a solid forest 120 miles in width; there are vast ranges of fine agricultural soil; there is room for the development of immense States, and the day will come when those States will be represented upon this floor, and, gazing back to the event of the present hour, man will wonder that the right of this great region to a railroad outlet ever was denied by intelligent members of this House.

I say to you that if a continuous line of fertile agricultural States ever reaches across this continent it must be through the country over which this road will pass. This region of country and the British possessions north of it are the only unsettled regions in the temperate zone of our continent fitted to sustain large agricultural populations. The flood of emigration must move in that direction or be permanently checked.

How wide the difference between this favored region and the country farther south through which the Central Pacific road must pass! A vast, treeless waste of sage bushes, alkaline plains, and sand hills, it will be impossible ever to establish through it any continuous line of settlements. The way-traffic of such a road can be of little or no value; it must create depots of fuel at stated intervals, and must carry forward with it everything it consumes.

Listen to the description which Lieut. G. K. Warren gives in his report (page 8) of an exploration of the country between the Missouri and Platte Rivers and the Rocky Mountains, of the sand-hill country, a description which applies to a very large portion of the route of the Central Pacific Railroad:

"The sand hills present their most characteristic appearance just north of Calamus River, spread out in every direction to the extreme verge of the horizon. The sand is nearly white, a lightish yellow, and is about three-fourths covered with coarse grass and other plants, their roots penetrating so deep that it is almost impossible to pull them out.

"The sand is formed into limited basins, over the rims of which you are constantly passing, up one side and down the other, the feet of the animals frequently sinking so as to make the progress excessively laborious.

"The scenery is exceedingly solitary, silent, and desolate and depressing to one's spirits. Antelope, and at times buffalo, are numerous. The character of the country is well calculated to cover a stealthy march or retreat; and if one keeps as much as possible to the hollows he may even fire his rifle within a quarter of a mile of an enemy's camp without the faintest sound reaching it. Two parties may pass close without being aware of each other's presence, and I consider it hopeless to attempt to capture any who had sought refuge in the sand hills. Farther west, I am told, these hills increase in height and are impassable for horses."

And yet, while to a railroad running over such a country as this not only lands but bonds of the United States are given, the country described by Captain Mullan is denied even the poor boon of a land grant, and all manner of captious objections are raised against the one great measure necessary for its development. But there is still another fact, a very significant fact, connected with this measure.

We have upon our continent a chain of mighty lakes which have been not inaptly termed a great river, because from the point where they arise in the plains of Minnesota to the point where the St. Lawrence falls into the Atlantic they are, as it were, but the expansions of one mighty river. The head of Lake Superior, at its western extremity, is almost half way across this continent. What, then, is more natural to connect this mighty system of water communication with a railroad system stretching away from its western extremity by the most direct route to the Pacific Ocean? You can not ignore the great fact that at the head of Lake Superior you are several hundred miles further westward, several hundred miles further into the heart of this continent, several hundred miles nearer the Pacific than you are upon the shores of Lake Michigan. Shall we, then, ignore this mighty fact; shall we, in aiming at the Pacific, seek land travel in a parallel line for several hundred miles side by side with Lake Superior? Shall the movement of commerce over this mighty water system be forever checked and arrested at the mouth of Lake Superior, and be forever interdicted from moving over its broad waters? Certainly not; no local jealousy, no temporary superiority in numbers in this House of rival interests can permanently negative the importance of that great fact. Commerce is not to be tied to the heels of local prejudice, but will seek out its own natural pathways with an instinct that never errs. These lakes, with a railroad prolongation from their western extremity, will yet form the great causeway of commerce across our continent.

Hence, if we have, as I have tried to show, first, a great territory, nearly a thousand miles in width, demanding this outlet; secondly, a territory capable of a very high degree of agricultural development, to which this road is a necessity; and, thirdly, a chain of great lakes, running from east to west, reaching half way across the continent and to the very point where this road proposes to commence, and forming a connecting link in this great system of continental communication—if we have all these things, Mr. Speaker, in our favor, can this House deny us what it has given so liberally to all other projects—a grant of the public lands?

But there is still another argument just been brought to bear against this bill. It is said that we should keep the public lands to pay the public debt. Let us consider this.

I had occasion a few days since, in some remarks I made upon another question, to allude hurriedly to the same objection now raised here; and nothing but the respect which I entertain for the gentleman from Ohio [Mr. Spalding], who has made the objection at this time, would induce me to recur to it. It is this: The great interior of the country, as it now lies, unsettled, uninhabited, incapable of settlement, because without the great outlets of rivers or rails agriculture can not prosper, for it depends for its growth not upon itself but upon its markets; this great interior region, I say, so situated, is valueless to the people and to the nation. And so long as that region of country remains in the condition in which it now is it can be of no value to the Government or the people, and its land can not be worth any conceivable price. But if, by the granting of these lands, you can build up vast communities; if you can develop a mighty country; if you can create great States that will come on this floor by their Representatives and on the floor of the other House by their Senators; if vast populations can be made to cluster around these fertile regions, then you obtain the means of taxation; you obtain men; you obtain the sinews of strength, of government, of power.

Contrast for an instant the States of Ohio, Indiana, and Illinois, as they now stand—mighty Commonwealths, inhabited by vast and patriotic and intelligent populations, full of wealth and prosperity, and happiness—with the value that the territory upon which they are planted would now possess to the nation if it had never been settled. Who will dare to draw the comparison?

This, then, seems to me to be not only the policy of the Government, but it has been its settled, uniform, unvarying policy for a quarter of a century; and it is too late now to attempt to displace or alter it.

Mr. Morrill: Mr. Speaker, of course I despair of retarding the progress of this bill longer than while I am talking or of ultimately preventing its passage. I know that when a proposition of this kind is introduced here giving away forty or fifty millions acres of lands it is certain to pass, especially under the lead of the distinguished gentleman from Pennsylvania [Mr. Stevens]. It is at least singular that we should propose to take up and galvanize an obsolete, dead corporation of the State of Maine, a thousand miles away even from its eastern terminus, for a great national work of this kind. If it is a thing proper to be done by Congress, why not create the machinery ourselves and have the credit for it? I do not like the idea of giving away lands to extend the Grand Trunk railroad of Canada. This appears to me to be the object aimed at. I am reminded in this connection that this bill proposing to aid in the building of a railroad over a tract of country in which there are no inhabitants, to reach a State containing only one hundred thousand inhabitants, is like the proposition of a gentleman who formerly represented Oregon here and who urged upon the Committee of Ways and Means to recommend an appropriation for establishing a fort at Walla Walla and sending a regiment of soldiers there. It was asked if there were any inhabitants there; he said no, but if we would only build a fort there and place a regiment of men in it there would be. [Laughter.]

So it is argued here that if we build this road we will have inhabitants in the region through which it passes, and that we shall thus develop the resources of the country. It strikes me, Mr. Speaker, that the more prudent course for us at this time is to husband our resources, such as we have left, to sustain the credit of the Government, and let this stupendous project wait until the commerce of the country will do something toward sustaining the road after it shall be built. This is a most munificent grant, involving, I believe, not less than 40,000,000 acres of land; at least there is no agreement among the friends of the measure as to how much it will require, whether thirty-six, forty, or fifty million acres. I hope the House will consider long before they pass a bill of this kind. I can see no trade there is now to support a road through this country, except the carrying of a few muskrat skins from the Red River of the North. There is no trade whatever, except the fur trade, beyond the limits of our settlements. If I can have the opportunity I shall move that this bill be postponed till December next.

Mr. Stevens, page 2296:

What then have we given them which gentlemen seem so sensitive about? We gave them that which to this nation to-day is not worth a dollar. We gave them land wholly uninhabited, lying in the bleak regions of the north and which, without some such road as this, never will be inhabited until the great fire shall consume those forests. It is therefore as a means of settling that country, now without one white inhabitant, and it is for the purpose of bringing the alternate sections into value so that homesteads may be worth something there, that we propose to give this company an opportunity to open up that vast wilderness to civilized man.

I do not call the grant of these lands giving away anything. The Government does not sell this land now. The Government at present says that any man who chooses to go and take may do so by paying simply \$10 for the surveying expenses. The land is no longer held as part of the national revenue. My eloquent friend from Ohio [Mr. Spalding] seems not to have remembered, at the moment that the land is no longer for sale by the Government of the United States; the whole of it is devoted to the purposes of population, and it is for that same purpose that I urge the building of this great road. What private owner of such land would not say, "Open out a road through it and you shall have half the land that lies anywhere within a reasonable distance, to the extent even of a kingdom?" Who would not dispose of it in that way if it were his own, and who would not do it acting disinterestedly in trust for the nation? I think, sir, that this is one of the greatest enterprises of the age, the opening of a railroad from the Pacific Ocean to the northern lakes.

I do not suppose that at once it would attract much trade from the East Indies, from Japan and China, but it will not be long before a very important country will be developed which lately belonged to China but now to Russia, which is drained by the waters of the Amoor River. This road would be the nearest outlet for the trade of that great country.

The value of our Northwestern possessions depends upon their being populated, and their population depends wholly on the construction of such a road.

I do not speak of the value of our public lands as a source of revenue. That never was of much importance compared with the value of its products. Now they have ceased to be of any marketable value. How, then, can the road be built?

Important as is the enterprise, the committee were unwilling to give any grant of bonds by the United States as was done to the Union Pacific road, but they felt willing to give them almost any amount of land along the route. By doing so we really gave away nothing, as the whole of it may be now taken by settlers without paying anything to the Government. The committee feel sure that this is the quickest way of settling it.

The Territories through which this road would run contain about 516,726 square miles. When settled at least eleven new States would be added to the Union. From Puget Sound to either China, Japan, or Calcutta is from three to four hundred miles nearer than from San Francisco. This would in some measure compensate for the greater population and better climate of California.

The building of this road and settlement of the country would prevent future Indian wars, and save the repetition of the horrible scenes which were lately enacted in Minnesota.

To aid the company the Government are asked to give twenty sections a mile through the States, being 12,000 acres, which, if it could be sold at the highest Government prices, would be \$16,000, and double that in the Territories. To the Union Pacific Railroad she granted that sum in bonds and ten sections of land, and across the mountains three times that amount. But we in truth give nothing. Government no longer sells her lands, as I before said.

The bill being put on final passage there were—ayes 55, nays 66. So the bill was lost.

This was May 16, 1864.

Now, it will be observed that in the debates upon this bill grave doubts were expressed as to the propriety of giving this grant of lands to the People's Company, a company created and organized under the laws of the State of Maine, and it was advocated by some that a corporation should be organized under the bill by the Congress of the United States, and which should be under its control. Consequently just a week after the failure of the bill upon which the foregoing discussion was had the following proceedings were had, to wit:

[May 23, 1864. Globe, volume 52, page 2427.]

Mr. Stevens asked unanimous consent to introduce a bill for the purpose of having it printed and committed (H. R. 433), a bill granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget Sound on the Pacific coast by the northern route.

The rules were suspended, and the bill was committed to the Committee on Pacific Railroads.

May 31, 1864 (Globe, volume 52, page 2611), Mr. Stevens called up H. R. 483.

Mr. HOLMAN. I understand that this is the same bill that has been already before the House; and I raise the point of order that it can not be again considered. The point of order was overruled as coming too late.

This is substantially the same bill as that defeated in the House on May 16, except as to the company to receive the grant, and except also the provision as to the forfeiture of the lands; and excepting also that the new bill provides that the alternate sections should not be sold under \$2.50 per acre.

Mr. Stevens said that he supposed it would be tedious for gentlemen to make their old speeches over again, and therefore he moved the previous question. (Top of page 2612.)

The previous question was ordered and the bill put upon its final passage, and passed—ayes 74, nays 50.

In Senate, June 27, 1861 (Globe, volume 53, page 3290):

The Senate proceeded, on the motion of Mr. Harlan, as Committee of the Whole, to consider the bill H. R. 483.

In the course of remarks Mr. Hendricks said:

"The bill before the Senate proposes to encourage the construction of a very important railroad to connect the waters of Lake Superior with the waters of the Pacific Ocean. Everybody can see at a glance that it is a work of national importance. It proposes to grant lands in a northern latitude where without the construction of a work like that the lands are comparatively without value to the Government. No person acquainted with the condition of that section of the country supposes that there can be very extensive settlements until the Government shall encourage such settlements by the construction of some work like this."

Mr. Harlan (page 3292, column 2):

Perhaps it is my duty to call the attention of the Senate to the difference between this grant and other land grants that have been made heretofore to aid in the construction of railroads. There is no material difference except in this, that this bill grants four times as much land per mile to the road west of the western boundary of Minnesota as Congress hitherto has ever granted to aid any other road. It will amount to about 25,000 acres to the mile. The Committee on Public Lands agreed to report this bill favorably on account of the vast consequence that will attach to the completion of the road. The land is to be conveyed to the company only as the road progresses. The committee were of opinion that if the road should be built the Government could well afford to give one-half of the land for the distance of 40 miles on each side of the road to secure its completion.

The bill was then passed with some amendments, which were afterward concurred in by the House or agreed upon by a committee of conference, and finally passed.

Now, it is a significant circumstance surrounding the inception of this grant that the only substantial points of difference between the provisions of the bill that failed and the one that became the law were three, to wit:

First. In respect to the company provided for to build the road and receive the grant.

Second. The clause with reference to the forfeiture.

Third. The price at which the lands within certain limits which were not granted should be sold.

Section 9 of the bill, which was lost, read as follows (Globe, page 2293):

SEC. 9. *And be it further enacted*, That the United States make the several conditional grants herein, and that the said People's Pacific Railroad Company accept the same, upon the further condition that if the said company make any breach of the provisions or conditions hereof, and allow the same to continue for upward of six months, then in such case the lands hereby granted shall revert to the United States and the grant hereby made shall be null and void.

Now we submit that if the former bill had become a law, and the new bill had been amendatory of the former one, proposing just this change in section 9, could there be any possible question as to what was intended by such change? The lawyers of the House need hear no argument upon such a proposition. As a matter of legislative intent, from the foregoing facts there is as little doubt. And we have a construction of these sections by at least one court.

In the case of *Hughes vs. The Northern Pacific Railroad Company* and others, heard and decided by the circuit court of the United States for the district of Oregon, in October, 1883, a suit in equity brought to restrain this company from proceeding further with the erection of a bridge over the Willamette River, one ground alleged was that the company had lost the right to build the bridge or further construct the road by failure to comply with the condition upon which the grant to it was made.

In the decision the court (Deady, J.) says:

But the condition imposed upon the defendant by section 8 of the act, is even modified by the provisions of section 9, from which it plainly appears that so far from Congress intending that the powers of the corporation should cease, or become forfeit in any particular, by reason of its failure or inability to keep any of the conditions imposed by said section 8, expressly reserved to itself the right in case of such failure for the period of one year, to "do any and all acts and things which may be needful and necessary to insure a speedy completion of the said road."

In this way Congress undertook to secure the completion of this great national work in any event, and so plainly declared in advance what might otherwise have been left to inference and argument from analogous cases, that it reserved to itself the right to deal with the defendant for any failure to comply with the conditions of the grant, and to excuse or enforce the same as it might, under all the circumstances, deem just to the defendant and best for the public good. Indeed, in view of the magnitude and hazard of the undertaking, it was expressly provided that even Congress should not take advantage of a failure to perform any of the conditions for any period less than a year. And even the land set apart by Congress to aid in the construction of the road was not left liable to revert to the public domain or be otherwise disposed of by Congress for the failure of the company to construct or complete the work as required by the act, but, as was said in *United States vs. Childers*, 8 Sawyer 174, it was devoted to the construction of the road in any event, and it is the duty of Congress to see that it is so applied. See, also, on this point *Southern Pacific Railroad Company vs. Orion*, 6 Saw., 173.

And this position is fortified by the fact that when Congress intended that the corporate existence of the defendant should be forfeited or affected by its failure to keep a condition imposed upon it, it has expressly said so, as in section 19, where it is provided that unless two millions of the stock is subscribed, and 10 per cent. paid thereon within two years from the passage of the act, "it shall be null and void." (18 Federal Reporter, 106, 108.)

Against this honest and well-considered opinion of a judge of great eminence and ability the committee have furnished no legal authority nor cited any legal principle directly in point. To say the least, it is clear, that, in view of this decision and opinion, it is extremely doubtful whether this land grant can be forfeited as proposed.

The conclusion of this whole matter then is, that what was intended by Congress in the passage of the act granting the franchise and the land to this company was to create a company which, unlike the former one, should be the creature of the act and under the control of Congress so far as might be necessary to carry out the objects of its creation, to create a trust fund in lands to aid in this enterprise, to make such company the trustee of that fund and to irrevocably devote that franchise and the lands to the consummation of this national enterprise.

It was manifestly the intention that if this trustee should prove recreant to its trust or fail to perform the conditions annexed to it Congress might interpose after the equitable forbearance of one year, resume the control of the whole matter, and do any and all acts and things which might be needful and necessary to insure the speedy completion of said road. This was not intended to be an act depriving the trustee of its rights in the property or ignoring such rights in any way, but it was framed with the purpose of so managing the trust by placing it in the hands of more energetic and active agencies to carry on the grand work which had been commenced. It is idle to say that such a purpose could be accomplished by a forfeiture of the lands and a diversion of them to any other purpose. Such a course would inevitably but cripple the trustee and disable it to execute the trust.

The policy of Congress was rather to aid the trustee, and to aid the enterprise by aiding the trustee, as long as it was acting in good faith; and it was in pursuance of this theory that in 1869 and again in 1870, before the limitation had expired, in view of the necessity of aid to the trustee in its great and embarrassing work, Congress did interpose at the solicitation of the trustee—the company—and did, for the purpose of furthering this work, authorize a mortgage to be given by the trustee upon all the lands covered by its grant, not only those pertaining to the constructed portion of the road but those pertaining to the unconstructed portion, and which are now sought to be reclaimed to the Government by this legislation. It was by this means and this means only that the company was enabled to proceed and build the road with the full sanction and approval of Congress and its co-operation in the inspection, examination, and acceptance of the road by sections as the same was completed, and the confirming of the lands accordingly. I mean its sanction and co-operation implied by its silences, and allowing these things to be done when it had the right and it was its duty to speak. It was only by this friendly co-operation of Congress that the company was enabled to realize the means whereby to build the road, and it was from the proceeds of the mortgage so authorized and made that the road was finally built.

It is evident, therefore, that the authority given by Congress to the company to make this mortgage and give a valid title which could be enforced by foreclosure is utterly inconsistent with the idea of the existence of a forfeiture; and Congress so understood the matter at the time, and held out such view as an inducement for the company to proceed with its work in execution of the trust. This was evidently the contemporary construction given by both the parties to the contract

and upon which they both acted, and this consideration ought to have great weight in a proper rendering of the contract now in the light of what has been done.

Another act of contemporary construction of the act by the parties to it occurred in 1882, for it was in furtherance of this same purpose to insure the speedy completion of this road, that Congress, as late as 1882, long after the expiration of the limitation referred to, again interposed, and by the act of July, 1882, entitled "An act to accept and ratify an agreement with the Crow Indians for the sale of a portion of their reservation in the Territory of Montana, required for the use of the Northern Pacific Railroad, and to make the necessary appropriations for carrying out the same," lent its friendly aid to this enterprise, fully and distinctly recognized the continuing force and effect of this grant, manifested its satisfaction with the progress that was being made and the manner in which the trustee was acting, and virtually waived any forfeiture which might otherwise have been claimed. This act was a full and complete legislative recognition of the continued and continuing power, right, and authority of the company to proceed with the work of construction and to remain in the possession, use, and enjoyment of every grant, right, and privilege originally granted to it for the purposes specified.

It is true that for a period of years, from 1874 until 1878, the financial stringency of the times, resulting in disasters all over the country, interrupted the progress of this work; but at the date of the last-named act and for some four years prior thereto work had been resumed upon the road and was being carried forward with a rapidity and diligence that was entirely satisfactory to Congress. It was manifest that the company was doing everything that could be done and making progress as rapidly as any agency which could have been invoked by any interposition by Congress. Hence the satisfaction which then existed on the part of Congress and its disposition to again lend its friendly aid to enable the trustee, the company, to carry out the purpose of its creation. The work progressed as rapidly as could reasonably have been expected, and, to borrow an argument from the majority report of the Public Lands Committee, no reasons of public policy demanded the interposition by Congress or a resumption of any of the rights granted to the railroad company, but on the other hand the most enlightened policy dictated the recognition of such rights as still continuing. No one then claimed or urged a right of forfeiture of the lands. We say then in conclusion upon this point that no right of forfeiture such as is here claimed was reserved in this grant, nor does it follow as a consequence of any breach of any condition-subsequent attached to the grant. Such was the natural import of the language used and such was the construction given to the contract while being executed by the parties to it.

But conceding, for the sake of the argument, that this was a forfeitable grant, forfeitable for breach of condition-subsequent, what, then was the condition of these lands after the failure of the railway company to complete the line within the time limited? Happily this question has been settled by the Supreme Court by repeated decisions, and the law applicable to them is tersely stated in the case of the *Saint Louis, Iron Mountain and Southern Railway Company vs. McGee*, 115 United States, at page 473, where the court says:

It has often been decided that lands granted by Congress to aid in the construction of railroads do not revert, after condition broken, until a forfeiture has been asserted by the United States, either through judicial proceedings instituted under authority of law for that purpose or through some legislative action legally equivalent to a judgment of office found at common law.

In other words, both the title and the possession remained in the railway company unimpaired for all the purposes of the grant until Congress should interpose to assert its rights to a forfeiture. Congress has not yet so interposed nor authorized any judicial proceeding to declare a forfeiture. Can it do so now in the light of subsequent events? It has also been decided by the Supreme Court in the case of the *Home of the Friendless vs. Rouse*, 8 Wall., at page 437, that a legislative grant is a contract to be construed the same as a contract between individuals. This doctrine is also affirmed in a later case, which we will note further on.

Now I claim it to be elementary that one having the right of re-entry for breach of condition-subsequent who stands by looking on and permits one having the right so to do to perform the condition thereby waives and loses his right of re-entry. I will go further and contend that if such one having the right of re-entry suffers his grantee in possession without objection to spend money in part performance of the condition broken, the right of re-entry is thereby lost. The right of re-entry once lost, it is lost forever; the party must resort to equity for relief.

And conceding that the right of forfeiture exists under the grant, I hold that the Government has waived that right, and is equitably estopped from asserting a forfeiture as to the portion of road built.

It is a rule of law in private controversies between man and man that when work has been fully done under a special contract, though not within the time prescribed, that if the work has been accepted and enjoyed, without objection, the party performing is entitled to recover on a *quantum meruit*. (2 Smith's Leading cases, 48 and 49.)

In this case the President, under the provisions of section 4 of the original act, has from time to time inspected and accepted nearly all

the road built, and the Government, as well as all the people of this country, have used and availed themselves of the road.

The principles and doctrines of equitable estoppel apply to States as well as to private persons. So held by a Federal judge in *Vermont vs. Society, &c.* (2 Paine, U. S. Cir., 545). Touching equitable estoppel the Supreme Court of the United States, in *Morgan vs. Railroad Company* (96 U. S., 720) say:

The principle is an important one in the administration of the law. It not unfrequently gives triumph to right and justice where nothing else could save them from defeat. It proceeds upon the ground that he who has been silent as to his alleged rights when he ought in good faith to have spoken shall not be heard to speak when he ought to have been silent.

These are golden words of equal sanctity with a decree from Mount Sinai, and should be taken to heart by all of us. Surely a great government ought not to bid defiance to this principle nor to be beyond and above the rules that govern private individuals.

This principle has been practically applied in a case quite analogous to this. In the case of *Ludlow vs. The New York and Harlem Railroad Company*, 12 Barbour, 445, Ludlow had conveyed certain lands to the railroad company, with a condition in the deed of conveyance that the same should be void unless the railroad was completed through the premises conveyed on or before the 1st day of January, 1843. The road was not completed through the premises by the 1st day of January, 1843, but was completed on the 25th day of September, 1844; and on the 22d day of October, 1846, the grantor, Ludlow, commenced an action of ejectment for the land, but no attempt was made by the plaintiff to enter for the condition broken, or to assert his right to the possession until the 9th of September, 1846, when he gave the defendant written notice to surrender to him the possession. The court said:

Did the grantor in the case under consideration manifest an intention not to insist upon a breach of the condition and dispense with the forfeiture? Was his conduct such as to induce the company to expend its money and proceed with the construction of the road after he knew that the condition had been broken? The referee found that he did. The facts, which are the evidence of this design, are not in dispute, and leave no room for doubt, as to their real tendency. He made no effort to assert his right to the estate, or to do any act equivalent to an entry at the common law, until two years after the forfeiture had occurred. During this time he saw the company making large expenditures over the premises in question, and extending the road at an enormous expense toward its northern terminus. \* \* \* No stronger evidence could be exhibited short of the execution and delivery of a new deed, of a design to waive the forfeiture and confirm the grant, than the facts to which I have adverted. Motion to set aside the report of the referee is denied. (12 Barbour, 445.)

The United States have been silent nearly seven years, while money has been borrowed to the extent of over \$60,000,000, and while 1,400 miles of most difficult road has been constructed and equipped—a continent has been spanned during this interregnum—the Forty-sixth, Forty-seventh, and Forty-eighth Congresses have been in session since the alleged default occurred, and neither took any action. If there is any negligence in this, it is the joint property of both parties, for two Congresses were Democratic and one Republican.

Now, we say that not only has the executive department of the Government participated in the performance or the substantial performance of all the conditions subsequent in this grant, and examined and accepted the road in sections of 25 miles, as provided by section 4 of the act, and in the conveying and confirming of the lands accordingly, but all these steps and the progress made by the railroad company from year to year has been faithfully spread before Congress by the Executive in his messages and in the report of the Secretary of the Interior accompanying the same, so that Congress has been kept fully advised and informed of all these proceedings from time to time. The Secretary of the Interior, in his report of November 15, 1879, gives a full account of the status of affairs at that time, and presents an opinion in a letter to the attorney of the railway company, in which he sets forth the non-forfeitable character of this grant that such was the construction placed upon it by the Interior Department. Again, in his report of November 1, 1880, after a general review of the affairs of the company, the Secretary says:

Under the present management the general condition of the company has greatly improved and vigorous measures have been adopted to push the work to a successful completion.

This it will be observed was after the time limited had expired for the completion of the road and after more than one year had elapsed after the limited time for the completion of the road, and Congress is here informed that vigorous measures have been adopted by the company to push the work to a successful completion. Surely it was the duty of Congress here to interpose and declare a forfeiture or else forever keep silent. Again in the report of the Secretary of November 1, 1881, the Secretary again reviews the general status of the company, refers to lines of road under construction lands, patented to the company, and other statistics. Again in his report of November 1, 1882, speaking of the affairs of this company, the Secretary says "the rapidity with which construction has been progressing upon both eastern and western divisions of this road is without precedent in the history of that company," and gives statistics.

Again, in report of the Secretary of the Interior of November 1, 1883, the Secretary reports the completion of the main line of this road, and refers to the entire line as having been inspected and found to be very thoroughly constructed. He refers to the settlement and development of the extensive regions tributary to the road and the immense increase

in population and the growth of the towns along the line from Minneapolis and Saint Paul and Duluth to Portland and Tacoma. As said before, all these facts are thus brought to the knowledge of Congress, which has stood by looking on and had thus participated in and sanctioned the performance of these conditions subsequent when it had the right to object. Now, we insist that, having stood silent when it had the right to object, it shall not now be heard to object. By every principle of justice and equity the right of the Government to re-enter or to declare a forfeiture has been waived.

But not only is the Government estopped by its silence—during this to the company pregnant and active period—but by its open and affirmative acts both through the executive department and through the legislative department, it has clearly and unmistakably indicated to the company and to the whole world that this great work should proceed to final completion undisturbed and unconfiscated. There are three of these open and affirmative acts. The first is the joint resolution of Congress, approved May 31, 1870 (16 Statutes at Large, 378), whereby the Government, with a knowledge of the inability of the company to construct the road, and before any of it was constructed, authorized it "to issue its bonds to aid in the construction and equipment of its road and to secure the same by mortgage on its property and rights of property of all kinds and descriptions, real, personal, and mixed, including its franchises as a corporation." And in the proviso it declares:

That all lands hereby granted to said company which shall not be sold or disposed of or remain subject to the mortgage by this act authorized, at the expiration of five years after the completion of the entire road, shall be subject to settlement and pre-emption like other lands, at a price to be paid to said company not exceeding \$2.50 per acre; and if the mortgage hereby authorized shall at any time be enforced by foreclosure or other legal proceeding, or the mortgaged lands hereby granted, or any of them, be sold by the trustees to whom such mortgage may be executed, either at its maturity or for any failure or default of said company under the terms thereof, such lands shall be sold at public sale, at places within the States and Territories in which they shall be situate, after not less than sixty days' previous notice, in single sections or subdivisions thereof, to the highest and best bidder.

Here was an authority to mortgage the lands before any of them were earned, and that, too, at a time when the company was in default. Surely this act ought to estop the Government from confiscating the security and lien of the mortgage creditors.

The Supreme Court, in its opinion in the Sinking-fund cases (99 U. S. Sup. Ct. Rep., 721), opinion by Chief-Justice Waite, says:

Congress can not undo what has already been done, and it can not unmake contracts that have already been made. \* \* \* It might originally have prohibited the borrowing of money on mortgage, or it might have said that no bonded debt should be created without ample provision by sinking fund to meet it at maturity. Not having done so at first, it can not now by direct legislation vacate mortgages already made under the powers originally granted, nor release debts already contracted.

The final and strangest act of estoppel, however, was by the legislative department in 1882, when the company were three years in default.

On the 10th day of July, 1882, Congress passed an act entitled "An act to accept and ratify an agreement with the Crow Indians for the sale of a portion of their reservation in the Territory of Montana, required for the use of the Northern Pacific Railroad, and to make the necessary appropriations for carrying out the same." (22 Statutes at Large, 157.)

In the agreement accepted and ratified by the Forty-seventh Congress, it is, among other things, recited that—

Whereas the said company did, on the 25th day of June, 1881, file in the Department of the Interior a map showing the definite location of its line of railroad from the one hundred and seventh degree of longitude west from Greenwich westwardly through said reservation and adjacent territory to the western boundary of the said reserve, as provided by said act of 1864. And whereas said company desires to construct its line of railroad upon such designated route, and claims the right by virtue of the said act so to do.

Now, this definite location of the line was nearly two years after the expiration of the extended time specified for the completion of the road, namely, July 4, 1879.

By the agreement, as set forth in the act, the Indians, for the consideration therein mentioned, did surrender and relinquish to the United States a strip of land 400 feet in width, that is to say, 200 feet in width on each side of the line laid down on the map of definite location, through the reservation, containing 5,384 acres; also, eleven several tracts of land therein particularly described, and aggregating 266 acres, and by section 3 of this act, approved July 10, 1882, it was enacted:

That the right of way over the land, relinquished by said agreement for the construction of said Northern Pacific Railroad, and the use of the several parcels of land so relinquished, intended to be used for depots, stations, sidings, and so forth, for said railroad, are hereby granted to said Northern Pacific Railroad Company, its successors, and assigns, for the uses and purposes in said agreement set forth.

Under and pursuant to this legislative act and on the faith of it the company on the 19th day of August, 1882, filed its acceptance in writing of the terms and conditions thereof, and on the 23d day of August, 1882, paid to the Treasurer of the United States the \$25,000 required by section 3 of the said act of July 10, 1882.

By these various acts and by this conduct Congress is estopped and can not now declare a forfeiture. Its right so to do has been waived.

But, says the committee, "Estopped can not be pleaded against the Government."

We respectfully dissent from this doctrine. We think that when the Government steps down from its pedestal of sovereignty and en-

gages in contracts with its subjects it is amenable to the laws and it is governed by the laws the same as an individual. Or, in other words, that the courts will treat the estate created by a grant of this kind the same as it would a like estate between individuals. (The case of the United States *vs.* Arredondo, 6 Peters, 691.)

In this case there was a grant of land containing about 300,000 acres of land from the King of Spain to Arredondo, of lands in Florida while it was still a province of Spain, upon a condition-subsequent that the grantee should establish on the lands two hundred Spanish families. This, it will be observed, is a grant by a king to his subjects, and if estoppel can be pleaded in such a case, why not against the government constituted as ours is, where the fallacy that the king can do no wrong has never found a place in our jurisprudence. In this case the Supreme Court in its decision says:

The condition of settling two hundred families on the land has not been complied with in fact; the question is, has it been complied with in law, or has such matter been presented to the court as dispenses with the performance and divests the grants of that condition?

It is an acknowledged rule of law that if a grant is made on a condition-subsequent, and its performance becomes impossible by the act of the grantor, the grant becomes single. We are not prepared to say that the condition of settling two hundred Spanish families in an American Territory has been or is possible. The condition was not unreasonable or unjust at the time it was imposed. Its performance would probably have been deemed a very fair and adequate consideration for the grant, as Florida remained a Spanish province; but to exact its performance after its cession to the United States would be demanding the *summon jus* indeed, and enforcing a forfeiture on principles not forbidden by the common law would be utterly inconsistent with its spirit. If the case required it, we might feel ourselves at all events justified, if not compelled, to declare that the performance of this condition had become impossible by the act of the grantor; but transferred the territory, the change of government, manner, habits, customs, laws, religion, and all the social and political relations of society and of life.

The United States have not submitted this case to her highest court of equity on such grounds as these. We are not either authorized or required by the law, which has devolved upon us the final consideration of this case, to be guided by such rules or governed by such principles in the deciding on the validity of the claimant's title. Though we should even doubt, if sitting as a court of common law and bound to adjudicate this claim by its rigid rules, the case has not been so submitted. The proceedings are in equity, according to its established rules, and our decree must be in conformity with the principles of justice, which would in such a case as this not only forbid a decree of forfeiture, but impel us to give a final decree in favor of the title conferred by the grant.

In the case of *Fremont vs. United States* (17 Howard, 542), which was a grant of a tract of land in California while it was a province of Mexico, upon certain conditions-subsequent requiring certain improvements and settlements to be made, it was held that the fact that Mexico, and California as a part of it, had for some years before been in a disturbed and unsettled state, constantly threatened with revolutionary and insurrectionary movements, and that in this state of things the uncivilized Indians had become more turbulent and were dangerous to the frontier settlements, which were not strong enough to resist them, and that this state of things existed in the Mariposa valley when this grant was made, that it was unsafe to remain there without a military force, and that this continued to be the case until the Mexican Government was overthrown by the American arms was a sufficient excuse for a non-performance of the conditions-subsequent.

In the case of the Northern Pacific Railway, it is an admitted fact that a similar state of affairs, so far as hostile Indians were concerned, existed along a great portion of its line or route during the most of the time allowed for the construction of its railroad. *Davis vs. Gray* (16 Wallace, 203) presents a case in some of its aspects very applicable to the facts involved here. This was a grant of land by the State of Texas to the Memphis, El Paso and Pacific Railroad Company in 1856 to build a railroad across the State upon certain conditions-subsequent. The company accepted the grant, expended about \$100,000 in surveys, and built about 50 miles of railroad before the 1st of March, 1861; and up to this time there was no bridge of any condition, but at this time the State of Texas went into the rebellion and the company went into bankruptcy. Afterward Gray was appointed receiver of the road.

In 1869 Texas, by constitutional amendment, undertook to declare a forfeiture of the lands granted and to devote them to the benefit of the school fund. The receiver (Gray) brought this action against Davis, who was governor of the State, and against the Commissioner of the General Land Office to restrain them from disposing of the lands under this constitutional amendment, and the court granted the relief. In its opinion the court says:

Here the controlling consideration is that the performance of all the conditions not performed was prevented by the State herself. By plunging into the war and prosecuting it she confessedly rendered it impossible for the company to fulfill during its continuance. This is alleged in the bill and admitted by the demurrer.

The rule at law is that if a condition-subsequent be possible at the time of making it, and becomes afterward impossible to be complied with, by the act of God, or the law, or the grantor, the estate having once vested, is not thereby divested, but becomes absolute. The analogy of that rule applied here would blot out these conditions. But this would be harsh and work injustice. Equity will, therefore, not apply the principle to that extent. It will regard the conditions as if no particular time for performance were specified. In such cases the rule is that the performance must be within a reasonable time. We are clear in our conviction that, under the circumstances, a reasonable time for performance had not elapsed when this bill was filed.

The State, by her own acts, has lost the benefit of an earlier completion of the work. The company has lost the income which it might have enjoyed, and has doubtless been thrown into embarrassments it would have escaped. The circumstances do not call for a severe application of the rules of law upon either side.

Breaches of such conditions may be waived by the grantor expressly or in

*pass.* \* \* \* That the act of incorporation and the land grant here in question, were contracts, is too well settled in this court to require discussion. As such, they were within the protection of that clause of the Constitution of the United States, which declares that no State shall pass any law impairing the obligation of contracts is too well settled in this court to require discussion. As such, they were within the protection of that clause of the Constitution of the United States which declares that no State shall pass any law impairing the obligation of contract. The ordinance of 1869, and the Constitution adopted in that year, in so far as they concern the question under consideration, are nullities, and may be laid out of view. When a State becomes a party to the contract, as in the case before us, the same rules of law are applied to her as to private persons under like circumstances. When she or her representatives are properly brought into the form of litigation, neither she nor they can assert any right of immunity as incident to her political sovereignty.

By these various acts of performance by the company and acceptance by the executive department of the Government brought home to the knowledge of Congress, &c., we insist that the Government has recognized the continuing force of the original grant and the rightful possession and title of the company in all its granted rights and is estopped to now allege to the contrary in condemning its earned lands. The only ground upon which it can be claimed that a forfeiture should be declared is because the road was not completed strictly within the time limited in the act, to wit, by July 4, 1879. Such a claim we say is purely technical and puerile and absolutely without merit. The road has been built and substantially completed faster than was ever anticipated by the most sanguine and as fast as it was possible to do it under all the circumstances surrounding the enterprise. The people and the Government have reaped and are reaping all the beneficial results which could possibly accrue from so great a work. The road has not only been built but has been maintained efficiently and in full compliance with the grant. The Government has for years been enjoying and is now enjoying the safe and speedy transportation of the mails, troops, munitions of war, and public stores over the route of said line of railway. It is to-day enjoying and will for all time to come enjoy a large deduction in the expense of the transportation of the mails and other property of the United States through that vast extent of country.

The substitute ought not to prevail.

The time having expired,

Mr. REED, of Maine, said: I ask by unanimous consent that the gentleman's time be extended for fifteen minutes.

Mr. STORM. I object.

Mr. HENLEY. The gentleman from Minnesota [Mr. STRAIT] has not used all his time.

Mr. BURROWS. The gentleman from Minnesota has promised to give away all of his time. Let the gentleman [Mr. GILFILLAN] have fifteen minutes more by unanimous consent.

Mr. COBB. I object.

Mr. GILFILLAN. Before yielding I ask leave to extend my remarks in the RECORD.

There was no objection.

Mr. STRAIT. I yield the balance of my time to the gentleman from Alabama.

Mr. OATES addressed the House. [See Appendix.]

Mr. PAYSON. Mr. Speaker, although coming in at nearly the close of the debate, I venture the hope that my remarks may not prove devoid of interest to the House.

I shall endeavor, sir, to confine myself to the question of the actual merits of the controversy, and, in the limited time permitted under the rules of the House, endeavor, in a practical way, to give the reasons which impel me to support the committee amendments and oppose the Senate bill.

The important questions involved, partaking largely of a judicial character, suggest to my mind the propriety of discussing them before this body as I would in a court of justice, making no appeals except to the reason of those who do me the honor of giving me their attention, and to the precise questions presented I at once address myself.

Mr. Speaker, as has been stated, this bill involves over 36,000,000 acres of the public lands. This area of lands, as large as the State in which I live, belongs either to the people of this country or to the Northern Pacific Railroad Company. One of those two propositions is true. It does not belong to the Government as such; for I take it that it goes without saying that all the property which we control, the lands of the nation, the public buildings, the Navy, the money in the Treasury, all the property under our control and subject to our direction, belongs to the people whom we represent, and we deal with it simply as their agents and in the capacity of trustees. And it does not matter what my individual notions may be in reference to any proposition which appeals to my generosity, in my official position here I am bound to deal with this property acting in a fiduciary capacity.

Nor do I believe, Mr. Speaker, that we have the right, unless under the law we are bound to do it, or there are strong equitable reasons which are practically equivalent to a legal obligation, to dispose of this vast empire of territory to the Northern Pacific Railroad Company unless they occupy one of those two positions. When I say "dispose" of it, I mean pass it from under the assumed control that we have over it. If it belongs to them, nothing that we can do here will divest them of their title to it. No action of ours here can interfere with any legal right that that company has to this area of land.

Believing as I do, Mr. Speaker, that we not only have the legal right

but that it is our duty in dealing with the question from equitable considerations to restore this land to the public domain, I am in favor of the adoption of the bill reported by the Committee on Public Lands.

The reasons which I have for entertaining these views I am very glad to have the opportunity to give to the House, premising what I say with reference to them with another statement. I do not believe, while not indulging in any criticism on the course of any other gentleman, that it is a proper method of discussing this question to allow political considerations to enter into it. There is no party or partisan question connected with this discussion. I yield to nobody in my fidelity to the views which I believe to be the national political questions which the Republican party of this country have espoused hitherto. And yet I deny the right of any man who belongs to that party or any convention of its membership to bind me in my ideas or actions in dealing with an economic question of this character, involving, as I know it does, legal questions which I am called on to deal with as a lawyer.

Nor do I believe in that policy which has prompted some of the gentlemen on the other side of the Chamber, but on the same side of the question that I occupy, in assuming to the Democratic party as a party the sole credit which may grow out of any attempt on the part of this Congress to restore to the public domain these millions of acres of the public lands to which these corporations are not in my opinion entitled. On this point I may say, Mr. Speaker, that within the last four or five years both political parties have manifested a somewhat tumultuous haste in coming to the front on this question and indorsing public sentiment with reference to it. There is no party politics in it. I have been in it from the first; not as a partisan, but as a citizen. Gentlemen on both sides of the Chamber honestly entertain, I have no doubt, different views with reference not only to the question of law involved here, but also the question of policy as to dealing with the questions between the Government and the railway company.

To correct erroneous impressions and to convince the judgment of those who differ from me is my sole purpose here to-day.

But I notice, sir, in the debate thus far that possibly a sufficient amount of information has not been given to members of the House with reference to the exact position of this case as it presents itself to the House and to the country. And I desire to be permitted to give briefly a résumé as to the history of the corporation.

Mr. Speaker, three classes of people are interested in the provisions of this bill:

First. The holders of its securities, which are first and second mortgage bondholders.

Second. The holders of the preferred stock of the company.

Third. The holders of the common stock of the company.

To understand the exact situation, then (for I may remark here that I hope to demonstrate that we have the legal right to assert this forfeiture, and therefore the question of the policy of so doing will be presented), a history of the company is important.

The grant was made by the act of Congress of July 2, 1864, to aid in the construction of a railroad and telegraph line from Lake Superior to Puget Sound.

It contemplated the construction of a competing transcontinental line, in round numbers 2,500 miles in length. It was assumed upon the face of the legislation that the railroad would be built by the wealthy and distinguished gentlemen who were named as corporators and their associates with money which they would furnish and the grant which the Government made to them; for the granting act contained a provision prohibiting the railway company from making any mortgage whatever. It had no right under the granting act to issue a bond or a security upon what Congress gave it. It was represented, as has been stated by the gentleman from Minnesota [Mr. GILFILLAN], that the corporators of the company were men of wealth and influence in the communities where they resided and amply able to build the road with their means and the public grant. The charter was very broad and contemplated a right on the part of citizens of every portion of the Union to subscribe to the capital stock of the corporation, which was fixed at a hundred million dollars, and these gentlemen coming here and asking to be named as corporators, being, as I have said men of wealth and influence, the charter was given to them with all the privileges which are contained in it, upon the assumption that they would furnish the money to build the road with the Government aid, because there was a prohibition in the charter against their issuing securities. This was in 1864.

September 1, 1864, the books of the company were opened for subscription to the capital stock, and on paper appeared the subscription for twenty thousand and seventy-five shares, on which, by the charter, \$10 per share in cash should have been paid, so that there should have been in the treasury of the company \$200,750.

Nothing in the way of progress was done. In January, 1867, twelve persons met in Boston and made an agreement, in substance, reciting that J. G. Smith, of Saint Albans, Vt., and his associates held this charter; that it could be purchased, and should be, and that the "enterprise" be divided into twelve shares, each \$8,500, or \$102,000, to be paid Smith and his associates therefor. This was done, and the "enterprise" became the property of these gentlemen.

In July, 1867, a second agreement was made between these parties

for paying assessments to the amount of \$12,500 each, if needed, for expenses in obtaining legislation.

Bear in mind, sir, that no work was being done; none of these wealthy gentlemen had expended a dollar in the legitimate work of building the railroad; but legislation was necessary, and apparently it was expected to be costly.

The legislation then sought was of two kinds—first, an extension of the time within which the road was to have been completed (which was fixed at July 4, 1876); and, secondly, to obtain from Congress the power to mortgage the road.

They secured both by the joint resolutions of May 7, 1866, and July 1, 1868. The time for the completion of the road was extended first two years and then one, so that July 4, 1879, became the date when the whole road should be completed; and of the second character, the act of March 4, 1879, first gave the power to mortgage the railroad and telegraph line. This not proving satisfactory, they secured the passage of the joint resolution of May 31, 1870, which gave them full power to mortgage "all its property and rights of property, real, personal, and mixed, including its franchise, &c."

But resuming the history:

As I have said, on July 3, 1867, this second agreement was made between the same persons to use further effort to obtain aid from Congress, that assessments, not to exceed \$12,500, might be made upon any of the twelve parts or shares as contribution for expenses in obtaining legislation. On May 20, 1869, an agreement was made between J. Gregory Smith, as president, and six of the directors of the company, acting as executive committee, on the one part, and Jay Cooke & Co. on the other part. This agreement recites the division of interest into the twelve parts or shares, and creates six (afterward increased to twelve) more parts, to be held and enjoyed by Jay Cooke & Co., subject to the two agreements of 1867 given above. It then provides that "the capital stock of said company, \$100,000,000, shall be appropriated as follows, that is to say, \$80,001,000 thereof shall be subscribed for by the representatives of the eighteen (afterward twenty-four) shares above described in equal proportions by each share, and shall be issued in fully paid-up stock to each of said eighteen shares, \$2,241,000 of which was to be issued at once, and the remainder from time to time, and the residue of said capital stock, \$19,999,000, shall be delivered to Jay Cooke & Co., in fully paid-up stock of equal value with the rest of said stock," in such amounts that Jay Cooke & Co. shall have \$200 of stock (afterward increased to \$400) for every \$1,000 of the bonds of the company sold by them.

This agreement then provided for the issue by the company of one hundred millions of bonds to be negotiated by Jay Cooke & Co. The thirteenth section of this agreement provides for the payment to all the holders of these eighteen (afterward twenty-four) parts or shares for all amounts paid by them or expenses incurred, with interest, and for their personal service, by giving them these bonds of the company at the rate of 88 cents on the dollar. So that now J. Gregory Smith and his associates, and the twelve shareholders who became liable to pay for legislation, &c., got back their money with interest, in marketable bonds at 12 per cent. below par. The \$600,000 worth of stock said to have been "issued by Josiah Perham, late president of the company," was also by the agreement to be taken up and retired with these bonds at the rate of 50 cents on the dollar of said stock.

But the most remarkable exposure made by this agreement is its recital of the fact that the twenty thousand shares originally subscribed for, and upon which the company was organized at Boston, had been "forfeited for non-payment of assessment."

It is therefore known now, out of the mouths of the persons at present claiming this \$18,000,000 of new stock, that all the originally subscribed stock had been extinguished; that the six thousand shares of Perham stock, however created, were to be extinguished; that J. Gregory Smith "and his associates," and the persons afterward joining him in the enterprise for getting Congressional aid, were to be paid for all advances "and compensation for personal services and expenses" out of company bonds at an extravagant share.

The agreement shows more, by implication, that at this time, excepting the six thousand Perham stock to be immediately extinguished, there was no stock of this company of any kind in existence; none had been ever subscribed for as contemplated by the charter, except the twenty thousand shares already forfeited. But the parties to these agreements, calling themselves the Northern Pacific Railroad Company, without subscription or payment of 10 per cent. as required by the charter, without any consideration to the company from them of any kind, because all their expenses, advances, and personal services were paid for in bonds—these persons, without the payment of a dollar, agreed to issue to themselves and Jay Cooke & Co. \$80,001,000 of stock, and besides this, to issue to Jay Cooke & Co. a further \$19,999,000, at the rate of \$400 for every \$1,000 bond the latter should sell.

A large part of the \$80,000,000 was to be divided at once among these persons, and the remainder to be issued, but always to them, as the road was built. This is the "old proprietary interests," and these persons and their "assigns" are the "proprietors" who upon this state of facts claimed the ownership of, and have received from themselves, as the company, the \$18,000,000 of stock just issued.

But a word need be said as to the effect of the foreclosure by the bondholders in 1875. Under this foreclosure all the property and franchises of the company were sold to the bondholders, represented by a committee, and a "plan" of reorganization was agreed to by which preferred stock was issued in exchange of bonds, and new common stock in substitution of old common stock.

The original twelve "proprietors" were J. Gregory Smith, W. B. Ogden, R. H. Burdell, D. N. Barney, R. H. Barney, B. P. Cheney, W. G. Fargo, G. W. Cass, J. Edgar Thomson, and Edward Reilly. When Jay Cooke became the financial agent of the company the number of "proprietors" was increased to twenty-four.

The agreement of these "proprietors" was, that of the \$80,001,000 left after Jay Cooke had been granted \$19,999,000 for selling bonds, \$2,241,000 was to be issued to them directly, and the remainder, \$77,760,000, was to be issued, "\$40,500 to each of said twenty-four shares, whenever and so often as 25 miles of said road is completed, so as to be run over by cars."

So it appears, Mr. Speaker, that after this first paper subscription for 20,075 shares these proprietors issued their prospectus, and endeavored to get other subscribers. That effort failed and nothing was done. Nobody would subscribe any money to the enterprise, so they came to Congress again in 1868 and asked a grant of additional privileges. Upon their petition an act of Congress was passed authorizing them to mortgage their road (not a rod of which was yet constructed), to mortgage their franchise and their telegraph line for any amount that the directors might think justifiable. No money was raised under that proposition. Not a spadeful of earth had been turned in the enterprise up to that time. In 1870, six years after the charter was passed, they again came to Congress and asked for additional privileges, namely, the privilege to mortgage their interest in the land grant as well as their franchises. Bear in mind, Mr. Speaker, that down to this time not a dollar had been subscribed even upon paper, except at the meeting of these twelve gentlemen in Boston in 1864, and I will say in passing, in order that my argument may be appreciated, for I shall emphasize this point a little later, that even that subscription was only a paper subscription, because not a dollar was paid into the treasury by any of those gentlemen, although the act of Congress provided that no incorporation should be made until at least 10 per cent. of the amount of the stock was paid in cash into the treasury.

This point is of special importance, because the holders of the common stock are one class of persons interested in this bill, and especially as the common stock in the original enterprise is the common stock in the present company, which was organized in 1875, after the failure of Jay Cooke & Co., of which I shall speak later. I may as well notice that interest now and here, as it bears upon the question of equity as to the common-stock holders, which I shall emphasize a little further on. I have heard it said in debate, and have read it in reported discussions of this question in another place, as bearing upon the question of equity here, that gentlemen who have subscribed to the capital stock of this company and have put their money into the building of the road relying on the non-action of Congress ought not to be interfered with; that the bonds which have been issued are a security that ought not to be lessened in value by Congressional interference; that the rights of the common-stock holders of the company, men who put their money into this enterprise upon the faith and credit of the enterprise itself and who have nothing to show for the money which they invested in the common stock and which has gone into the construction of the road for all these years, except the hope of the ultimate profit which would come out of it—I have heard the rights of all these gentlemen adverted to in very feeling terms.

Now, Mr. Speaker, what I desire to be understood as saying is—and I have the documents here to prove it and will read them now if disputed—that not a dollar was ever paid into the treasury of the Northern Pacific Railroad Company by the holder of a share of the common stock of that company—not a dollar. The common stock of that corporation was \$49,000,000 under the reorganization of 1875, and every dollar of that stock was parceled out to the promoters of the enterprise and to those who joined them later as a bonus and a speculation; and Mr. Speaker, if any gentleman thinks I am mistaken about this I will now and here yield five minutes of my time to any one who is familiar with the history of these transactions in order that he may have an opportunity to prove the contrary of what I have stated.

Mr. BUTTERWORTH. I understand the gentleman's statement to apply to the original stockholders.

Mr. PAYSON. What I say is that the only subscription that was ever made under the old organization was the subscription to these twenty thousand and seventy-five shares by the twelve gentlemen who met in Boston in 1864, and I say that not a dollar was ever paid on that subscription. Then, when the company reorganized in 1875, the common stock of the company was fixed at \$49,000,000, the entire stock being one hundred millions. Of that total fifty-one millions was preferred stock and forty-nine millions was common stock. Upon that common stock not a dollar was ever paid, and the subscription for the twenty thousand and seventy-five shares had been canceled because no money had ever been paid upon them.

Mr. BUTTERWORTH. The gentleman's statement, as I understand it, is that the stock was parceled out and nothing was paid for it.

Mr. PAYSON. That is what I say—that is it exactly; and a large part of the preferred stock as well, as I shall show.

Mr. BUTTERWORTH. I am simply asking for information, and I now ask the gentleman whether that stock has been scattered and distributed among innocent holders?

Mr. PAYSON. That I can not say. I do not know whether it has or not. I know where it went originally. I know also, as part of the financial history of the country and from an examination of the reports coming from New York, the great financial center, that very little of it is on that market, and that what little of it there is is quoted at about 21 cents.

Mr. GILFILLAN. I would like to ask the gentleman from Illinois whether the facts he is now advertising to constitute any reason why the securities—

Mr. PAYSON. I hope the gentleman will not anticipate me. I say no, it has nothing to do with the securities. I shall come to them in due time.

Mr. GILFILLAN. The gentleman will perhaps hear my question. I desire to ask him whether the facts he has just been stating have anything to do with the franchise or constitute any reason why the securities which men hold who furnished the money to build the road should now be snatched away from them?

Mr. PAYSON. If the result were so I should say not at all; certainly not. But I say to my friend, if he will follow me, that I am dealing now only with the question of the common shareholders, not the holders of the bonded indebtedness. I shall address myself to them later, and I hope to his satisfaction.

I am trying, Mr. Speaker, to make myself definitely understood upon each proposition as I proceed. I was addressing myself to the proposition which I have heard stated on this floor, and have read in the debates which have occurred elsewhere as to the duty which Congress owes to the stock-holders of this company. It has been urged that at this late day, owing to the inaction on the part of Congress heretofore with reference to this matter, we ought to do nothing which may in any degree impair the security which these holders of the common stock have in this line of railroad and the property therewith connected. I am now talking about them and them alone. As I have said as to the class of gentlemen referred to by the gentleman from Minnesota [Mr. GILFILLAN], I shall have something to say later on.

Now, Mr. Speaker, precisely how is this question presented? What are the facts about it? After Congress had given to this railway company in 1870 the power to mortgage the road, the gentlemen who were at the head of the enterprise made a contract with Jay Cooke & Co., whose names are somewhat familiar with the affairs of this company the country over. That arrangement was, in substance, that under the act of Congress of 1870 a mortgage should be issued upon the property of the company, whatever it was, to the amount of \$30,000,000. Mortgage bonds to this amount were to be floated by Jay Cooke & Co., under a contract made between that firm and the railroad company at that time. This was in the fall of 1870. A large share of this common stock was parceled out as a bonus to Jay Cooke & Co., as I have said, as part of the consideration for their services in floating the \$30,000,000 of bonds which were issued. These bonds were put upon the market and were sold. There was realized from the sale of these securities a trifle over \$20,000,000, which was expended in good faith by the promoters of the enterprise in constructing the line of railroad from Lake Superior westwardly to where Bismarck now is on the Missouri River, a distance of 529 miles and a fraction.

In detail, there was built before October, 1872, the line from Thompson to Red River in Minnesota, 228 miles, and thereon to Bismarck, 196 miles, in 1873; that same year from Kalama to Tenino in Washington, 65 miles; and in the fall of 1873, Tenino to Tacoma, 40 miles; in all, 530 miles before March 1, 1874, and this is all that was built before the expiration of the grant.

I desire, Mr. Speaker, that these facts, as part of the history of this transaction, be kept in mind; that when it became apparent to the promoters of the enterprise during the years intervening between 1864 and 1870, and later on, after Jay Cooke's failure, that the road could not be constructed within the time required, application was made to Congress to extend the time. The original act provided that the road should be completed and accepted by the 4th day of July, 1876.

Many of us remember the statements which were made in connection with the passage of the bill, that the centennial anniversary of the foundation of the Government would be celebrated by the opening of this transcontinental line; and it was confidently predicted by the eminent gentlemen named as corporators that with the money they had and were willing to advance the road could be completed by that time. But, failing to secure subscriptions outside, and failing or refusing to invest their own money in the enterprise, of course the road could not be built; so they came to Congress and asked for an extension of time, and the time was extended. By an act of Congress passed in 1866, an extension was granted for two years, running to 1869. Later, in 1868, another act of Congress was passed, at the instance of the same gentlemen, extending the time for another year and giving them, as they claim, an additional grant of land for the branch line across the Cascade Mountain.

And, sir, no work was done after 1874 until 1880, when the bonds

issued to build the Missouri division were sold on the market. And in 1881, the first session of the Forty-seventh Congress, bills were introduced declaring a forfeiture of lands not earned "in time," and have been pending since, constantly, and though vigorously pressed, the condition of the public business has been such that no vote could be had until now.

The time has been twice extended by Congress, and though afterward applications were made for further extensions of time, those applications were invariably refused. So that, pending the construction of the road west of the Missouri River, those engaged in the enterprise as well as the public at large were notified that Congress had given all the extensions that the railway company would ever get.

But 530 miles of road were built within the time required for the completion of the whole line. There remain unconstructed to-day, according to reports from the Interior Department, 340 miles; and there have been built out of time 1,492 miles, making, with the 530 miles constructed in time, a total of 2,362 miles, the mileage of the road. The number of acres to which the railroad company is entitled for the road built "in time," is 10,039,450. The acreage lying opposite that portion of the road which was built "out of time" is 30,737,101. The number of acres lying opposite the unconstructed portion of the road is 6,170,640, the total amount of the grant being in round numbers 46,947,200 acres. The Senate bill proposes to allow the railway company all lands lying opposite the road which is now constructed. The House substitute for the Senate bill proposes to restore to the public domain every acre of land lying opposite the road which was not constructed in time, aggregating, as I have stated, 36,907,741 acres.

I resume now the history of this transaction from its financial standpoint. After this contract with Jay Cooke in 1870, by virtue of which \$30,000,000 of bonds were to be floated, and on which a trifle over \$20,000,000 was realized, the building of the road was proceeded with, and all the road which was constructed in time was constructed prior to the spring of 1874. During the year 1873 the bubble burst; Jay Cooke & Co. failed, and in their downfall were involved the affairs of the Northern Pacific Railroad Company, that firm having been the financial agents of the corporation. Construction ceased. Nobody who was interested in the railroad company sought to pick up the wreck and go on with the work by furnishing the money; but the same policy was expected to be pursued that had been adopted in the past—to build the road only when the people of the country would advance their money upon the faith of the securities of the road and without its promoters putting a dollar into the enterprise. So, the five valuable years between 1875 and 1879, which could have been utilized in the construction of this road by the promoters of the enterprise, if they had furnished the money, were allowed to elapse and the enterprise to lie dormant. So the time expired.

In 1875, after the failure of Jay Cooke & Co., those who had money in the enterprise in the form of these bonds met together to see what could be done with reference to it. A plan of reorganization was entered upon in the summer of 1875, growing out of litigation which arose in this state of the case.

On the 10th day of April, 1875, a bill was filed in the United States courts in the city of New York for the foreclosure of these \$30,000,000 of bonds. The decree in that case was entered on the 25th of August, 1875. On the 20th of May of that year in anticipation of this decree, or rather pending the litigation between the filing of the bill and decree, a large number of bondholders got together and adopted a plan of reorganization of the affairs of the road, which plan I hold in my hand and shall ask leave to insert it in the RECORD. It is too lengthy to read to the House at this time; but the substance of which, so far as it bears on what we are considering, is this:

The plan contemplated taking up the \$30,000,000 of bonds outstanding, adding two years of interest in arrears, and three of interest yet to come, making an aggregate of \$43,000,000, and for this amount \$42,000,000 of preferred stock in the new company should be issued for the bonds and interest. The capital stock of the company under this reorganization was fixed at \$100,000,000, \$51,000,000 of preferred stock, being a majority and giving the control of the affairs of the company, \$51,000,000 of preferred stock, and \$49,000,000 of common stock. Forty-two million dollars represented the \$30,000,000 of bonds and the two years' interest in arrears, and the three years' interest to come, or five years in all. The other \$9,000,000 was left in the Treasury as the plan of the organization suggests to be used as might be deemed expedient and proper by the directors of the company.

I may say in passing here, so the history may be connected, that this \$9,000,000 of preferred stock has been held in the Treasury of the company and parceled out as a bonus to those who subscribed to the mortgage bonds of the company in the directory so that the subscribers should get on the ground floor. This bonus was always given when mortgage bonds were taken, and this \$9,000,000 of stock was parceled out in this way.

The other \$49,000,000 of common stock was used, as I stated ten minutes ago, that is divided up as a bonus and a gift to the original directors of the enterprise as their interest might appear; not a dollar being subscribed on it, not a dollar given for it or charged by way of interest on it. It was used to fatten up those already plethoric with wealth in this transaction.

Another provision was inserted in this plan of reorganization; that is this: any holder of any preferred stock in the company might at his option exchange it for lands of the company which lay east of the Missouri River. Who hears me that does not remember they embrace the great wheat-raising belt in the Northwest. It was determined by experiment and observation that land was rich and fertile and these gentlemen of the company being interested, holding all these securities and all this preferred stock of the company, incorporated in the plan of reorganization this proposition. The bonds then selling in the market, as I happen to know from experience of some of my townsmen, at 9, 10, and 11 cents, were gathered together in this plan of reorganization and put into the lands of the company, at \$1.50 and \$2.50 per acre, which was the highest, in the great wheat-growing country in the Northwest. Every thinking gentleman will remember, when they hear accounts of the great farms of the West devoted to wheat raising, the Dalrymple farm with 50,000 acres, the Cheney farm with 42,000 acres, the Cass farm, the Dwight farm consisting of two townships, and other farms belonging to men, some of whom are in public life to-day, every one of them coming from the surrender of these bonds at from 10 to 15 cents for lands of this company, east of the Missouri River. That is one part of the plan of the reorganization of this company.

So much of this plan of reorganization as I deem material I here read: The capital stock of the company shall be as fixed in the act of incorporation, and shall be divided into preferred and common.

On the sale of the railroad and the other property, and the acquisition of title thereto by the committee above named, the present stockholders shall surrender their certificates of stock into the hands of the said committee, to be held by them either as confirmatory evidences or muniments of title, to be used accordingly by them.

#### PREFERRED STOCK.

Preferred stock shall be created and issued to the amount of \$51,000,000 (being a majority of the share capital) for the following purposes: to retire the principal of the outstanding 7.30 bonds, and the interest thereon due and to become due up to and including July 1, 1878, at the rate of 8 per cent. currency per annum; and also to retire the principal and interest, to and including January 1, 1875, of the land-warrant bonds; to pay the floating debt not protected under the existing orders of the court; and, generally, for the purpose of carrying into effect this plan.

The preferred stock shall have all the rights and privileges of the common stock, with the right to vote, and the holders thereof shall be entitled to dividends, not exceeding 8 per cent. per annum, as the "net earnings" hereinafter defined, in each calendar year, may suffice to pay, and before any dividends shall be paid on the common stock.

After and during the time the income of the road shall be sufficient to pay 8 per cent. dividends on both the preferred and the common stock, the surplus shall be divided on both alike per share, according to the number of shares issued of each.

The preferred stock shall be convertible at the par value into any lands belonging to the company, or hereafter to belong to it, east of the Missouri River in the State of Minnesota and in the Territory of Dakota, until default shall occur in some of the provisions of the new first-mortgage bonds, hereinafter provided for, and such conversion shall be an extinguishment of such stock. The proceeds of all sales of such lands, until such default, shall be used likewise in extinguishment of such stock.

The words "net earnings," as used above, shall be construed to mean such surplus earnings of the said railroad as shall remain, after paying all expenses of operating the said railroad and carrying on its business, including all taxes and assessments and payments on incumbrances, and including the interest and sinking fund on the first-mortgage bonds, the expenses of repairing or replacing the said railroad, its appurtenances, equipments or other property, so that the same shall be in high condition, and of providing such additional equipment as the said company shall deem necessary for the business of said railroad.

#### COMMON STOCK.

Common stock shall be issued to the amount authorized by the charter, less the amount of \$51,000,000 of preferred stock. The holders of the common stock shall not have the right to vote on it, until on or after July 1, 1878. The holders of this stock shall only be entitled to dividends in each year at the discretion of the board of directors, when the net earnings, as heretofore defined, exceed an amount sufficient to pay interest and sinking fund on the mortgage debts and 8 per cent. on the preferred stock. Certificates of this stock shall be issued to holders of, or to those now entitled to, certificates, share for share; and the residue ratably to those originally entitled thereto, or their assigns.

#### FIRST-MORTGAGE BONDS.

To provide the means to complete and equip the road, there shall be issued first-mortgage bonds not to exceed an average of \$25,000 per mile of road actually completed and accepted by the President of the United States, to be secured by a mortgage or mortgages which shall be a first and paramount lien on the whole line of road, constructed and to be constructed, and on the equipment, property, lands and franchises, acquired and to be acquired, including the franchise to be a corporation, subject only to the right of the holders of the preferred stock to convert their stock into the lands of the company, now owned or hereafter to be acquired east of the Missouri River, in the State of Minnesota, and Territory of Dakota, and also to the right to the proceeds of the sales of said lands, to be used in the extinguishment of said stock, until any default is made in the provisions of this mortgage. The principal of these bonds shall be payable forty years after date, and the interest and sinking fund may be made payable in gold.

There shall be provided a sinking fund for the redemption of the principal of these first-mortgage bonds, at or before their maturity, which shall be accumulative and shall commence five years after the date of the issue of each series. The first-mortgage bonds shall be countersigned by one or more trust companies, and said trust company or companies shall deliver to the railroad company bonds to the amount of \$25,000 per mile of each mile of road already completed, and shall continue to deliver bonds to the company, not to exceed \$25,000 per mile of road constructed, or for which the materials may have been furnished.

Provision shall be made in the first mortgage or mortgages to secure effectually the holders of the bonds issued under them in the event of any and every default. No other bonds shall be issued, except on a vote of at least three-fourths of the preferred stock, at a meeting specially held in reference thereto, on a notice of at least thirty days by advertisement in two newspapers published respectively in the cities of New York, Philadelphia, and Boston.

[Here the House adjourned, Mr. PAYSON holding the floor.]

Mr. HENLEY. If the gentleman from Illinois will yield to me for a moment I will ask consent to make an order with reference to the debate.

Mr. PAYSON. If the House desires the debate should be closed I will yield to the gentleman from California.

Mr. WARNER, of Ohio. I ask unanimous consent that the time for adjournment be extended to let the gentleman conclude his remarks.

Mr. PAYSON. I do not ask that. I prefer to continue in the morning. I think sitting here until 5 o'clock is late enough.

Reserving my right to the floor, I will yield for a moment.

The SPEAKER. The gentleman will be entitled to the floor.

#### INFORMATION FROM TREASURY DEPARTMENT.

McMILLIN, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Ways and Means:

*Resolved*, That the Secretary of the Treasury be requested, if not inconsistent with the public welfare, to transmit to the House, in compliance with its request embraced in House resolution of January 28, 1886, such information as has been compiled as therein directed.

#### DETENTION OF A. K. CUTTING IN MEXICO.

Mr. KING, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Foreign Affairs:

*Resolved*, That the President be requested, if not incompatible with the public interest, to communicate to the House of Representatives such information as may be in his possession concerning the alleged illegal detention of A. K. Cutting, an American citizen, by the Mexican authorities at El Paso Del Norte, and also whether any additional troops have been recently ordered to Fort Bliss.

#### ORDER OF BUSINESS.

Mr. WARNER, of Ohio. The hour of 5 o'clock has arrived.

Mr. REED, of Maine. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. ATKINSON: Petition of Robert S. Lacy, of Alexandria County, Virginia, relative to claim—to the Committee on War Claims.

By Mr. C. R. BRECKINRIDGE: A bill for the improvement of rivers and harbors—to the Committee on Rivers and Harbors.

By Mr. CARLETON: Protest of Miles Post, No. 113, Grand Army of the Republic, against the passage of a law making a special tax for the purpose of paying pensions—to the Committee on Invalid Pensions.

Also, resolutions of Fairbanks Post, No. 17, Grand Army of the Republic, of Detroit, Mich., for the passage of the bill granting a pension to Cornelia R. Schenck over the veto of the President—to the same committee.

By Mr. GEDDES: Petition of members of Ogden Post, Grand Army of the Republic, of Ashland County, Ohio, for pension legislation, without first providing means of payment—to the same committee.

By Mr. HIESTAND: Petition and papers of John R. Reynolds, of Dayton, Ohio, for payment of his claim for property taken and property purchased—to the Committee on War Claims.

By Mr. KING: Concurrent resolution of the General Assembly of Louisiana, relative to the national defenses—to the Committee on Naval Affairs.

By Mr. O'FERRALL: Petition for the relief of Isaac N. Hollingsworth—to the Committee on War Claims.

By Mr. SENEY: Petition of John Stewart and others, for the passage of Senate bill 2056—to the Committee on Invalid Pensions.

By Mr. J. W. STEWART: Memorial of property-holders in squares 729, 730, and 731 in the city of Washington, asking for relief—to the Committee on the Judiciary.

By Mr. WAKEFIELD: Petition of R. H. Wade and 30 others, citizens of Jackson County; of George R. Browning and 20 others, citizens of Martin County; and of 53 citizens of Watonwan County, of Minnesota, for Congressional action in the matter of alleged illegal certification of lands to the Saint Paul and Sioux City and Southern Minnesota Railroad Companies—to the Committee on the Public Lands.

The following petitions, asking for the passage of House bill 7887, repealing timber-culture, pre-emption, and desert-land acts; of House bill 7021, for adjustment of railroad and other land grants; of bill forfeiting all railroad land grants the conditions of which have not been strictly complied with; of House bill organizing the Territory of Oklahoma; of Senate bill opening a portion of the great Sioux reservation to settlement; of bill prohibiting aliens from holding land in the United States; of bill making Presidential and Congressional election days holidays, and punishing bribery; and of bill directing disbursement of at least \$200,000,000 Treasury surplus, and substituting Treasury notes for bank notes retired, were severally referred to the Committee on the Public Lands:

By Mr. CANNON: Petition of W. B. Kerr and 173 others, of Carl C. Winston and 250 others, and of David H. Murchey and 316 others, citizens of the fifteenth district of Illinois.

By Mr. CRAIN: Petition of J. T. Cornelius and 60 others, of Samuel Muller and 60 others, and of James E. Moore and 138 others, citizens of the seventh district of Texas.

By Mr. EUSTACE GIBSON: Petition of Lewis Foaly and others, and of W. R. Neale and 46 others, citizens of the fourth district of West Virginia.

By Mr. SENEY: Petition of John Wolf and 79 others, citizens of Seneca County, Ohio.

#### SENATE.

TUESDAY, July 27, 1886.

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, and after reading for ten minutes,

Mr. HALE. It is a long Journal, and I ask that its further reading be dispensed with.

The PRESIDENT *pro tempore*. If there be no objection—

Mr. INGALLS. I doubt whether the time of those who are present can be better employed than in listening to the reading of the Journal.

Mr. HALE. If the Senator wants to hear it, of course he has the right.

Mr. INGALLS. There is not a quorum present.

The PRESIDENT *pro tempore*. The reading of the Journal will be proceeded with.

The Secretary resumed and concluded the reading of the Journal.

The PRESIDENT *pro tempore*. If there be no objection the Journal will stand approved as read.

#### PETITIONS AND MEMORIALS.

Mr. SAWYER presented the petition of Lorenzo Forbes, late a private in Company H, Twentieth Regiment Wisconsin Volunteer Infantry, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

Mr. HALE presented three petitions of citizens of Maine, praying for the passage of certain bills in relation to the public lands, Presidential and Congressional elections, and the disbursement of a part of the Treasury surplus; which were referred to the Committee on Finance.

Mr. CULLOM presented a petition of ex-Union soldiers of Manito, Ill., praying for the passage of the bill pensioning ex-prisoners of war; which was referred to the Committee on Military Affairs.

He also presented a memorial of citizens of Chicago, Ill., remonstrating against the passage of the oleomargarine bill; which was ordered to lie on the table.

Mr. PALMER. I present a resolution of Fairbanks Post, Grand Army of the Republic, of the State of Michigan, concerning the veto by the President of the bill for the relief of Cornelia R. Schenck. I ask that it be read, so that it may be placed in the RECORD.

The PRESIDENT *pro tempore*. If there be no objection the resolution will be read.

Mr. HARRIS. Will the Senator from Michigan state again what the paper is which he proposes to put in the RECORD.

Mr. PALMER. A resolution in regard to the veto message of the President in the matter of the pension of Cornelia R. Schenck.

Mr. HARRIS. A resolution of what body?

Mr. PALMER. A resolution of a post of the Grand Army of the Republic.

Mr. HARRIS. I hardly see the propriety of that.

The PRESIDENT *pro tempore*. Is there objection to reading the paper? The Chair hears none, and it will be read.

The paper was read, and ordered to lie on the table, as follows:

HEADQUARTERS FAIRBANKS POST, No. 17,  
DEPARTMENT OF MICHIGAN, G. A. R.,  
Detroit, July 22, 1886.

DEAR SIR: At a largely attended meeting of Fairbanks Post, No. 17, Department of Michigan, Grand Army of the Republic, Wednesday evening, July 21, the veto by the President of the special pension bill of Mrs. Cornelia R. Schenck was discussed, and as the beneficiary is well known to our comrades and the belief in the justness of her claim being strong, the following resolution was passed by a unanimous vote of the post:

*Resolved*, That the Senators and Representatives in Congress from the State of Michigan be instructed to cast their votes in favor of the passage of the pension bill of Cornelia R. Schenck over the President's veto."

And I was directed to communicate the same to our representatives.

With great respect, respectfully, yours, &c.

JAS. C. WHEELER, Adjutant.

HON. T. W. PALMER,  
United States Senate, Washington, D. C.

Mr. EVARTS. I present a petition signed by the president of the Eight-hour League of Brooklyn, N. Y., the secretary and representative of the same league of Philadelphia, and the officers of the same in the city of Washington. The petitioners in very respectful statements ask that they may be allowed to go to the Court of Claims for a determination of their rights. As the petition is brief I will read it. It is as follows:

To the honorable the Senate of the United States:

Your petitioners respectfully represent that they are a committee appointed by and acting for a large number of laborers, workmen, and mechanics who are now or have been employed by the Government of the United States since the enactment of what is commonly known as the eight-hour law.